



TO: THE ATTORNEY GENERAL OF ONTARIO

REPORT OF

THE ATTORNEY GENERAL'S COMMITTEE ON ENFORCEMENT OF THE LAW

RELATING TO GAMBLING

VOLUME 1

THE COMMITTEE: J.D. MORTON, ESQ. (CHAIRMAN)

ROLF ENG, ESQ.

COUNSEL:

M.L. FRIEDLAND, ESQ.

Terms of Reference

"To consider the problem in enforcement of the law relating to gambling with reference to the problems in certain other jurisdictions."

Appointed: July 5th, 1961

Reported: November 6th, 1961

KF Ontario. Committee on Enforcement
9440 of the Law Relating to Gambling
O57 Report of the Attorney General's
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v.1 Law Relating to Gambling

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INTRODUCTION

Leaving aside all questions of the social desirability of the prohibition or regulation of gambling, we have considered only the problems arising out of the enforcement - a matter which, unlike the enactment of substantive criminal law, is within the constitutional jurisdiction of the Attorney-General of Ontario. Enforcement can not, however, be considered independently of the substantive law and accordingly we settled on the following pattern for our research.

The following jurisdictions outside Canada were selected as the subject of our research.

1. The United Kingdom

This choice was based on the fact that Canadian law has been drawn largely from United Kingdom sources. Further recent changes in the United Kingdom gambling laws might indicate the degree to which problems of enforcement vary with the changes in substantive law.

2. The Republic of Ireland

This choice was based on the fact that the Republic has shown a greater toleration of gambling than the other jurisdictions in the British Isles.

3. The Scandinavian Countries - in particular Norway and Sweden

This choice was based on the fact that these jurisdictions have faced the problem of enforcement in the face of infiltration by foreign football pools.

4. The United States of America with special reference to New York State.

Legally, subject only to the possible limitations of the Canadian Bill of Rights, the Parliament of Canada may enact any law which is criminal in nature. Prohibition or regulation of any activity on the ground that it is criminal in nature is not effective unless it is enforced. This enforcement may well cost the community a great deal in time, effort and expense, and, what is far more serious, it may involve the sacrifice of other values which may be far more important in the community.

Having examined the substantive law in the various jurisdictions, the committee attempted to discover what problems of enforcement had arisen and to what expense in both money and values the various communities have been prepared to go.

Finally, this experience in other jurisdictions was related to problems of law enforcement in Ontario and certain proposals are made.

CHAPTER 1

It must be emphasized that the Committee has not considered the moral or social evils of gambling, if any. In this regard, the Committee would merely restate, without comment, the views on the subject of the most recent English Royal Commission:

"We are left with the impression that it is extremely difficult to establish by abstract arguments that all gambling is inherently immoral, without adopting views as to the nature of good and evil which would not find general acceptance among moralists. Our concern with the ethical significance of gambling is confined to the effect which it may have on the character of the gambler as a member of society. If we were convinced that, whatever the degree of gambling, this effect must be harmful, we should be inclined to think that it was the duty of the State to restrict gambling to the greatest extent practicable. This point of view was put to us by some witnesses, but we do not think that it can be established either by abstract argument or by an appeal to experience. It would be out of place to discuss here the abstract arguments, but from our general observation and from the evidence which we have heard we can find no support for the belief that gambling, provided that it is kept within reasonable bounds, does serious harm either to the character of those who take part in it, or to their family circle and the community generally. It is in immoderate gambling that the dangers lie; an individual or a community in whose life gambling plays too prominent a part betrays a false sense of values which cannot but impair the full development of the personality or the society. It is the concern of the State that gambling, like other indulgences such as the drinking of alcoholic liquor, should be kept within reasonable bounds, but this does not imply that there is anything inherently wrong in it."

Our concern has been to discover whether it has been effectively prohibited or regulated and, if so, at what price. We have, in particular, concentrated upon the results of ineffective attempts to regulate and control gambling.

The Urge to Gamble

It is to be noted that the desire to gamble seems to have been present in the minds of a substantial number of those humans whose history has been recorded. For example, anthropologists have shown that gambling was an important aspect of the culture of the Pomo Indian tribe in California: gambling under State control is at the moment widespread in the Soviet Bloc of Eastern European countries. As the English Home Secretary has pointed out in moving the Second Reading of the new English Betting and Gaming Bill. (Hansard Vol. 613 p. 805 16 November, 1959)

"Gambling laws, or gambling without laws, have existed in highly developed societies down the ages, and the forms of gambling have hardly varied. A citizen of ancient Pompeii has recorded on a wall of that city that on a trip to Nuceria he won 855 demarii at the gaming table. He took pains to add, and history has passed it down, that it was achieved fide bona, that is, without cheating.

In the chariot races in ancient Rome, the successful chariot drivers were honoured and feted, the victors receiving a sum of money, and if they were slaves, sometimes receiving their freedom. There was betting on the races and large sums of money changed hands. The chariots carried different colours and the rivalry between colours led not only to heavy betting, but to riot and bloodshed".

The Home Secretary went on to observe that the latter has not yet stained the escutcheon of the Jockey Club.

It would seem that the desire to gamble is universal: the force of this social urge to gamble is clear when it is realized

that the introduction of legal gambling in a communist country is totally repugnant to the doctrinal philosophy that "the endeavour to obtain things and money without work" is an example of "petty bourgeois morality and psychology".

Attempts to Prohibit Gambling

The Committee is unable to point to any successful attempt past or present to completely prohibit all forms of gambling.

Attempts to Regulate Gambling

Attempts to regulate gambling are, on the other hand, common. The philosophy behind this regulation is presumably similar to that expressed by the Rt. Hon. Arthur Meighen in reference to the liquor traffic (Canadian Senate Debates, 1934, p. 109)

"We can never get the world perfect. Some argue that the sale of liquor should be entirely prohibited. They say that because liquor is not good for society we ought to make its manufacture and sale a crime and ban it wholly. Assuming their premises to be sound, it does not follow that their remedy is feasible. If the traffic cannot as a matter of practical executive authority be banned, it may be better to control it within certain limits".

The Canadian Criminal Code, the relevant portions of which are set out as an appendix to this report, has adopted this regulatory approach. Gambling as such is not prohibited and the prohibitions are confined generally to what might be called professional

gambling, whereby private individuals would be enabled to exploit, and profit from, their fellow-citizens' urge to gamble. It is lawful for one man to bet with another on the outcome of any event; unlawful to operate a bookmaking business. It is lawful for people to play at games of chance in private provided that there is not a profit in the form of a rake-off or fee for playing and that there is no indulgence in certain forbidden games. Lotteries and pools amongst more than ten persons are unlawful. Exceptions to the general rules provide for the operation of pari-mutuel systems, small lotteries at carnivals and fairs, gaming at social clubs which charge a small fee, and the operation of occasional games for charitable or religious purposes.

It is not a matter of common knowledge that Section 326 of the Criminal Code makes it an offence to gamble on the stock market in the sense of contracting to buy or sell stock without a bona fide intention of acquiring or selling the same.

The Committee infers that the distinction between what is permitted and what is prohibited is based on the proposition that the gambling urges of the citizens may reasonably be satisfied within lawful limits and that the limited prohibitions are susceptible to enforcement.

TITLE ONE

FOREIGN JURISDICTIONS

CHAPTER 2

The Experience in Great Britain

Until the situation was clarified by the 1960 Betting & Gaming Act, the law was difficult to interpret, depending as it did on a great number of early statutes, later remedial and supplementary ones and judicial decisions. Our investigation of the English experience has, of course, been made easier by the 1960 Act, which basically adopted the recommendations of a well-considered report of the Royal Commission on Betting, Lotteries and Gaming (1949-1951). We will attempt to examine the state of the law before this Act, the problems in enforcing that law and the reasons why changes were made in the 1960 Act. For purposes of convenience, we divide this section into gaming, betting on sports events (including horse and dog racing), and lotteries.

Gaming - Before the 1960 Act

There have been numerous statutes passed in England over the past six centuries dealing with gaming. The earliest of these were not directed at Gaming as such, but to protect the practice of archery. It was not gambling on games of chance that was illegal because the prohibition applied with equal force to games of skill and gaming that did not involve gambling. For example, the Unlawful Games Act of 1541 during the reign of Henry VIII was entitled "An Acte for Mayntenance of Artyllarie and Debarringe of Unlawful Games." Over the course of the next three centuries legislation designed to curb excessive gambling was passed making it an offence to keep a common gaming house, to prevent cheating at play, limiting the amount

that a loser might have to pay a winner and making certain games unlawful in whatever circumstances they were played. In the middle of the 19th century it became obvious that the existing enactments for the supervision of gaming were ineffective and acts were passed to give the police more power to deal with such establishments.

The state of the law before the 1960 Betting & Gaming Act was confused and haphazard. The 1951 Royal Commission observed (para 17):

"We do not think it necessary to describe in detail the statutes relating in whole or in part, to gaming, of which there are no less than 15 still in force, 7 bearing dates earlier than 1819 ... To describe in simple terms the effect of these complicated statutes, of the common law relating to gaming houses and of the judicial decisions on the subject is extremely difficult; as the Chief Magistrate for the Metropolis told us, it is practically impossible for the ordinary man to know what the law is."

Basically, there were two categories of unlawful games; firstly, those that were unlawful by statute wherever played and secondly, those that were by statute or judicial decision unlawful if played in a gaming house. Certain games of cards (most of them now obsolete) roulette and all games with dice, except backgammon, were some of the games unlawful in themselves. As to what games were unlawful if played in a gaming house, one can only say that the determination of this question by the courts was not unlike the very games that they were holding unlawful! In 1884, Harwin J. in the leading case of Janks v. Turpin (1884), 13 Q.B.D. 505, stated "The unlawful games then, now are, - ace of hearts, pharaoh, basset, hazard, passage, roulet - every game of dice except backgammon,

and every game of cards which is not a game of mere skill; and, I am inclined to add, any other games of mere chance". The law was expanded in further cases to include baccarat, chemin-de-fer, whist drives and poker. The legislation was so drawn and construed that almost any place in which games of chance were played for money was a gaming house (1951 Royal Commission para 411).

In spite of this almost total prohibition on gaming it still continued to flourish. The Royal Commission remarked (para 141) that broadly speaking

"all organized gaming is illegal, but the law is not strictly applied to certain of its forms. The police have been described as 'administering a law founded on common sense, but ... not the law of the land as enacted by Parliament and interpreted by the Judges'".

No interference was normally made with respect to certain types of activities:

- (a) Gaming in clubs. The Royal Commission reported that (para 146) the police do not take action against this type of gaming so long as they are satisfied that the club is a bona fide club and is not open to the general public and they receive no complaints about the manner in which it is conducted.
- (b) Whist Drives and other similar activities. Chief Constables had been advised (see para 147) not to institute proceedings except where there was reason to believe that a whist drive was a cloak for gambling or for profit-making out of gambling.

1960 Act

Contrary to the conclusions of an earlier English Royal Commission in 1933 that "the prohibition of gaming houses is of long-standing and is accepted as necessary in the public interests" (para 534 of the 1933 Report) the 1951 Royal Commission recommended that changes be made in the law to allow gaming houses but to inhibit their development by preventing the promoter from reaping great profits.

The proposals of the Royal Commission as to gaming were based on the following considerations:

- (1) The law was difficult to understand both by those to whom it applied and by those whose duty it was to enforce it.
- (2) The enforcement of the law depended on the discretion of the police.
- (3) It was ineffective to designate certain games as illegal as history showed that new games were invented to take the place of those declared illegal.
- (4) Likewise, it was ineffective to distinguish between games of skill and games of chance. The proper distinction was "between games which are by their nature, of such interest that the normal player will attach more importance to the playing of the game than to the winning of the stakes and those in which the interest in the

play is slight". The Royal Commission recognized that this distinction could not be the subject of legislation depending as it did on the motives of the individual players.

The new legislation eliminates the concept of the "common gaming house". It provides that anyone may conduct, or promote gaming provided that:

- (a) the chances in the game are equally favourable to all the players;
- (b) there is no rake-off; and
- (c) no payment is required for a person to take part in the gaming.

Thus, it can be assumed that no professional promoter would conduct a game where his only profit would accrue from incidental sidelines such as a refreshment stand.

If the legislation had stopped there, there would be little large-scale gaming in England. Provision was made, however, to exempt clubs from restriction as to profit.

To fall within this exemption, it was required that the clubs had to be so constituted and conducted as to be of more than a merely temporary character, that the gaming was carried on as an activity of the club and that any person who took part in the gaming had to be a member of the club in pursuance of an application for membership made 24 hours before the game began or a bona fide guest of a member.

If these conditions are satisfied, then the club, apart from any annual subscription for membership, can require payment from a person taking part in gaming as long as the payment is of a fixed sum of money determined before the game begins. This payment would be in the form of what is commonly referred to as card money. No sum is stipulated as a maximum for this type of payment. The Royal Commission had recommended that the legislation provide only for a reasonable charge to meet the cost of the facilities provided. This was not adopted in the subsequent legislation. It would seem that under the new legislation, it would be permissible to charge higher amounts in rooms where (or during hours when) the stakes are greater. The fact that the chances in the game must be equally favourable to all players does not mean that certain games such as roulette are prohibited. This could probably be lawfully conducted if the bank was selected by a chance determination or if the bank revolved around the table.

Although it cannot be said that the English legislation has allowed wide open gambling casinos, it has come very close to it by the club exemption.

Bingo

The Committee has paid particular attention to the method of controlling the operation of Bingo in England. Bingo may legally be played in the same way as any other game provided that the promoter of the game obtains no profit from promoting the game. It may also be played in a club in which case, the promoter could not take any percentage of the stakes but could require payment of a

fixed sum of money determined before the gaming began. Whether this fixed sum could depend upon the number of cards used by the participants, must be left for the English courts to determine. The Club exemption is widely used.

There is a further manner in which Bingo can be played. That is under the Small Lotteries & Gaming Act, 1956. If this Act is resorted to, the money must be applied for purposes other than purposes of private gain and the game must be in accordance with certain conditions, i.e. the maximum payment by each player in respect of all games played at the entertainment must not exceed 5/- and there must not be more than one distribution of prizes or awards not exceeding £20 in value in respect of all games played at the entertainment (a further provision allows a final entertainment distribution of £100 when there is a series of entertainments at different times).

It appears to the Committee that the effect of the new legislation upon the operation of bingo is to afford very wide opportunities for those who wish to indulge legally in this form of gaming.

Betting on Sports Events

There are three major forms of betting in England which account for a very large proportion of total amounts staked by gamblers - betting on horse-races, dog races and football pools.

The 1951 Royal Commission concluded that about 14 million persons or rather more than one in three of the adult population

took part in football pool betting and this figure included over 7 million persons who sent in coupons during each week of the football season.

For horse-racing they found that approximately 4 million persons bet regularly on horse-racing off the course and that perhaps half the adult population placed a bet on such races as the Derby and the Grand National. The figure for those who bet on course each year was approximately 2-1/2 million.

Dog-racing was also found to be an extremely popular event. The annual individual admissions were over 30 million, although the number of regular attenders was about 500,000. Apparently there was no indication of any widespread betting on dog-racing off the course. Because dog-racing does not take place in Canada, and because in England its manner of operation is fairly similar to horse-racing, the Committee will not deal with dog-racing as a separate activity. The one pertinent observation that can be made with respect to dog-racing is that the pattern of gambling in a nation may show wide fluctuations and traditional forms of gambling may often be supplemented by new ones. The first major track for dog-racing was built in 1926, and today there are approximately 200 tracks.

A. Horse-Racing

Until about the end of the 18th century, when the professional bookmaker first appeared on the English scene, betting was generally a private matter between individuals and was subject only to the general law relating to gaming. Cash betting houses became

numerous in the middle of the 19th century. This increase may be due in part to certain legal developments i.e., that gambling debts were no longer enforceable in the courts and that the courts had declared sweepstakes illegal.

The first important English Act, an Act for the Suppression of Betting Houses (1853), to suppress betting on horse-races was passed just a little over 100 years ago. The evil struck at by this Act was not the betting itself; in fact, the Attorney-General in introducing the Bill in the House of Commons stressed the fact that the Act would not interfere with the "betting that had so long existed at Tattersal's and elsewhere in connection with the great national sport of horse-racing". (1853) Hansard Vol. 129 p. 87). Rather, it was because, in the words of the Attorney General, "servants, apprentices and workmen, induced by the temptation of receiving a large sum for a small one, took their few shillings to these places, and the first effect of their losing was to tempt them to go on spending their money, in the hope of retrieving their losses, and for this purpose, it not unfrequently happened that they were driven into robbing their masters and employers". (Ibid. p.88)

The effect of the legislation was to suppress houses for off-track cash betting. It did not interfere with bookmakers who accepted bets off the track on credit. It also did not prevent cash betting in the streets; a fact which naturally drove the cash bookmaker out into the streets. In 1906, the Street Betting Act, an Act

for the Suppression of Betting in Streets and Other Public Places, was passed.

Due to the fact that anyone could bet off the track on credit or on the track in cash, and possibly also by cash betting with the roundsman (e.g. the milkman) who might not have been considered "frequenting or loitering ... for the purpose of betting" contrary to the Street Betting Act, it is not surprising that the 1960 Betting & Gaming Act was passed to allow cash betting off the track, under careful State supervision.

The 1951 Royal Commission found that: (para 221)

"It is no exaggeration to say that the enforcement of the law has become little more than a formality. In those parts of the country where street runners operate they do so in the knowledge that they will, from time to time, be arrested and fined. Their fines are paid by their employer and regarded as part of his business expenses; we have seen many cases reported of runners who have been convicted a dozen or more times of offences ...

In other parts of the country cash bets are accepted at offices, which are on occasions raided by the police; the subsequent prosecution and the penalties imposed do not lead to the closing of the office. We were told by one police witness that the licensing of betting offices would merely be regularizing what is a fact in his city, and we have no doubt, from other evidence and enquiries which we have made, that the same is true of other parts of the country".

Betting on the track has always been considered legal.

At first it was simply done through bookmakers. In 1928, The Race-course Betting Act provided for the establishment of a totalisator (a "tote"). It is interesting to note that in England where "free enterprise" is the general rule in gambling, the "tote" is run by

a statutory board whereas in Canada it is run by private organizations and regulated by the Government. All the "tote" money is returned to the bettors except for the percentage deducted for taxes and for the Board. The sum deducted for the Board's use is used to meet their expenses, to give money for charitable purposes and in making payments, in accordance with schemes prepared by the Board and approved by the Secretary of State, and for purposes conducive to the improvement of breeds of horses or the sport of horse-racing, or the advancement or encouragement of veterinary education. No sum goes directly to a racecourse management except when the racecourse is authorized to operate the "tote", in which case the Board may pay to the persons having the management of the race course the amount of the expenses properly incurred in running the tote".

The Royal Commission summed up their objection to the existing prohibition on off-course cash betting in this way (para 213).

"It is difficult to enforce; it has become out-of-date as a result of the development of many other forms of legal gambling; it gives an appearance of class distinction; and it is clearly ineffective as a method of checking gambling generally".

The Royal Commission took the view that illegal cash betting off the course could not be prevented either by increasing penalties or allowing other forms of cash betting which did not require physical contact with the bookmaker, e.g. cash betting by post. They felt that the legalization of postal cash betting would not be sufficient to enable other illegal forms of betting to be suppressed.

As a result of the 1960 Act, there are five alternate ways of betting on horse races apart from actually going to the track or placing a private bet with another individual.

- (1) By telephone
- (2) By post
- (3) Via roundsmen (e.g. milkmen)
- (4) Via the runner at the bettor's place of work, or the bettor's residence
- (5) In cash at a licenced betting office

It would require too much space to outline the scheme provided by the new Act for the regulation of off-~~course~~ betting. Some of the more important points are

- (a) Every bookmaker require a permit granted by the justices of the peace in his area.
- (b) There is a scheme for the authorization and registration of bookmakers' agents.
- (c) A betting office licence granted by the local licencing authority is required by a bookmaker before he may accept cash bets.
- (d) Detailed rules are established for the conduct of licenced betting offices including rules prohibiting television or sound broadcasts. Restrictions

on opening hours (apart from certain holidays and Sundays and a 6.30 evening closing hour) were not imposed. It was felt that to close the offices during racing hours would defeat the very reason for allowing off-track cash betting shops - to put cash betting for the small man on the same level as credit betting.

(e) Increased penalties have been imposed for offences against the 1906 Street Betting Act.

Football Pool Betting

As pointed out earlier football (i.e. soccer) pool betting is big business and requires an elaborate office organization. This form of betting existed in 1933, at the time of the previous Royal Commission, but on a comparatively small scale. Since then it has shown a remarkable growth. The competitor is invited to make sets of forecasts of the results of certain football matches included in a coupon drawn up and distributed each week by the promoter. The eight principal pool operators employed in 1951 about 23,000 persons of whom about 12,000 were employed by Littlewoods Pools Limited. In order to keep within the law the football pool had to be conducted on a credit basis. The usual arrangement was for the money staked on each coupon to be sent with the following week's coupon.

The Pool Betting Act 1954 extended the manner of operation of these pools to include cash betting. It is now carefully regulated by requiring persons promoting pool betting to register

with a local authority. Apart from an investigation into the character of the pool promoter, the local authority must appoint an accountant to keep a close watch on the activities of the promoter. The promoter must follow the detailed provisions of the Act relating to pool betting, must not advertise through newspapers, must supply the accountant and the local authority with certain specific information relating to stakes and winnings and must distribute to competitors a statement of the percentage of stakes deducted by way of commission and expenses. The two factors of competition and publicity tend to keep this activity from developing into a source of high profits to the promoter.

It should also be noted that football is the only sport apart from racing in which the bettor can engage in cash pool betting.

Contrast with North America

In the United States, discussion of the evils of gambling centres upon the person who accepts the bets, the main evil being the concentration of money in the hands of individuals or groups who may use these funds for illegal activities. In contrast, in England the harmful effects of gambling are discussed in terms of the gambler himself. The 1951 Royal Commission did not even direct their minds to the relationship of the bookmaker and crime. It was stated (para 186)

"We are led by all the evidence we have heard to the conclusion that gambling, as a factor in the economic life of the country or as a cause of crime, is of

little significance and that its effects on social behaviour, insofar as these are a suitable object for legislation, are in the great majority of cases less important than has been suggested to us by some witnesses. We therefore consider that the object of gambling legislation should be to interfere as little as possible with individual liberty to take part in the various forms of gambling but to impose such restrictions as are desirable and practicable as to prevent excess".

An investigation of this difference in approach is one of the keys to the dissimilarity between the English and North American position today. On this side of the Atlantic, bookmaking was completely prohibited. The bookmaker was driven underground and has since been in opposition to law enforcement agencies. Thus the pattern described in Chapter 4, "The American Experience", naturally developed.

In England the bookmaker (or as he is sometimes called the "turf accountant") has always been legal. The only activity that he has been prohibited from engaging in is accepting offtrack cash bets. All other activities have been legal, including the "layoff". Bookmakers could even openly lay-off their bets with an agent of the statutory board that controls the operation of the tote.

It should also be pointed out that the English authorities have never been particularly concerned with foreign operators moving into England and directing gambling operations - a factor which tends to make the English experience less applicable to Canada where American infiltration is an ever-present danger.

Lotteries

A lottery is commonly referred to as a scheme for distributing prizes by lot or chance without the use of skill.

The 1960 Act did not change the basic rules as to lotteries established by the Betting & Lotteries Act, 1934, that small lotteries conducted without private profit should be legal. The following forms of lotteries are legal in England today.

(1) Small Lotteries

These may be promoted by an authorized member of a society which is registered by a local authority in order to raise money for the purposes of the society provided that its purposes are not private gain or of a commercial nature. (e.g. it must be charitable, athletic, cultural, etc.) The lottery must be conducted in accordance with certain statutory restrictions: not more than one-half of the proceeds may be distributed as prizes, no prize may exceed £100, the price of all tickets must be the same, the maximum value of each ticket is one shilling, the total value of all the tickets sold must not exceed £750; the expenses must not exceed 10% of the proceeds, advertising is restricted, returns have to be made to the local authority and all proceeds must be applied to the purposes of the society.

(2) Lotteries Incidental to Entertainments

A lottery incidental to an entertainment is lawful if there is no private profit from the entertainment or the lottery and the total value of the prizes is not more than £10 and that the lottery is wholly conducted during the progress of the entertainment.

(3) Private Lotteries

A private lottery is one in which the sale of tickets is confined to members of the same society, or to persons who work or reside at the same place. There is no restriction, as in the Small Lotteries, on the value of the prizes or the cost of the tickets but as in the other forms of lotteries there can be no private gain.

The 1951 Royal Commission found that although there were fairly frequent breaches of the law, there was no substantial abuse of the Act, and its enforcement was a comparatively simple matter.

In commenting on the legalization of small lotteries by the 1934 Act, the 1951 Royal Commission stated:- (Para 128)

"Small lotteries continue to be, as they were even when they were illegal, a common feature of such occasions as fetes, jumble sales and whist drives. We were unable to obtain any information as to the frequency of these lotteries and cannot therefore state whether legalization has led to an increase in their number. Our impression is that they have neither increased nor decreased."

The evidence indicated though that private lotteries were gaining in popularity. But as with Small Lotteries (Para 132)

"the enforcement of the law dealing with private lotteries, on the whole, causes the police little difficulty ... It is the practice of the police, unless the circumstances suggest a deliberate and large-scale attempt to evade the law, to treat these offences, when they are brought to their attention, as of minor importance and to warn the promoters. The receipt of a warning is generally sufficient to bring the promoters on to the right side of the law."

It was conceded that the police were unable to completely stamp out illegal lotteries run for private gain, but they have been successful in restricting their operations to a very small scale.

The Foreign Lottery

Foreign lotteries are illegal.

The only one to gain and maintain a foothold in England is the Irish Sweepstakes. The manner of enforcement appears to resemble that employed in Canada, i.e. preventing the entry of advertisements and tickets, preventing the transmission abroad of remittances, and the prosecution of agents. Although it is an offence to purchase a ticket in a foreign lottery, prosecutions are normally directed only against the agents of lotteries.

The one additional technique for enforcement is that it is an offence in England to print, publish or distribute any list of prize winners in a lottery. This is not an offence in Canada.

The Royal Commission felt that the drop in total receipts for the Irish Sweepstakes might have been due to the restriction on the activities of the promoters in England. But as

one witness said to the Royal Commission -

"Speaking merely as an individual and not as a police officer, I gather it is not too difficult to get a ticket in the Irish Sweep if you want it."

CHAPTER 3

The Experience in Norway, Sweden and the Republic of Ireland

The Committee has carefully examined the law in these jurisdictions. The conclusions drawn from such examination will be here summarized and more detailed accounts of such matters as were found to be significant are included in various Appendices to this Report. References to these Appendices will be found in that part of the Report dealing with law enforcement problems in Ontario.

(1) Norway and Sweden

The principal lesson to be drawn from the Scandinavian experience is that the creation of state operated gambling outlets may solve existing law enforcement problems without creating new ones.

The governments of both countries have acted on the basis of meeting problems when they arise. Attempted solutions have been treated as experiments which could be varied or abandoned as experience dictated.

The experience in two areas seems to be typical of this approach.

(a) Lotteries in Sweden

Lotteries were permitted as far back as 1772. In 1841 they were banned on ethical grounds. Faced with a continuing demand for lotteries with consequent law enforcement problems, the Swedish government in 1896 approved the legal operation of a money lottery in private hands. In 1939 in order to ensure that the profits of the enterprise were used for valid public purposes, the Swedish State Lotteries Ltd. was formed. This national lottery has reserved to it the sole right of awarding money prizes by lot.

The Norwegian experience is similar.

(b) Football Pools

Sweden appears to have been the first country to introduce government operated sports pool betting. This step was taken in 1939 as a result of the failure of law enforcement agencies to eliminate the illegal distribution of large numbers of foreign pool coupons. The creation of the Swedish pools solved the law enforcement problem but, as the turnover of the Swedish pool increased, opposition to this legal outlet grew. Acting in response to the criticisms, the government drastically reduced the size of the operation. This in turn produced a strong reaction and the former practice was resumed. There is wide public satisfaction with the present operation of the system.

The Norwegian government introduced its state football pool system in 1946 in response to similar problems.

(2) The Republic of Ireland

Experience in the Republic of Ireland is of interest principally with respect to off-track cash betting.

In 1926, the new Irish government faced with a widespread demand for off-track cash betting and remembering the ineffective prohibition on such imposed by the former United Kingdom legislation, legalised off-track cash book-making under strict controls. Due to abuses of the system, it became necessary to amend the legislation in 1931, but since that time organised off-track cash betting facilities in the form of licensed bookmakers and betting shops have presented no serious law enforcement problems.

The establishment of these legal betting shops is reported to have ended illegal betting in the streets and in the factories.

It has also been suggested that the existence of such legal facilities for gambling as these betting shops and the Irish Hospitals Sweepstakes has greatly limited public support for such illegal operations as participation in English football pools.

CHAPTER 4

The Experience in the State of New York

The Committee has found the experience in the State of New York to be of great value for two reasons.

- (i) The distinction drawn by New York State law between legal and illegal gambling is substantially the same as that drawn by the Criminal Code in Ontario.
- (ii) The problems involved in the enforcement of these common anti-gambling laws have been the subject of extensive and careful investigation by the Temporary Commission of Investigation of the State of New York on whose work in this area the Committee has largely relied.

The Commission

Established in 1958 with a five-year term, the Commission of Investigation is an investigative fact-finding body operating throughout New York State, primarily in three major areas of jurisdiction: (1) organized crime and racketeering; (2) the conduct of public officers and public employees; (3) investigative assistance upon request of the Governor and other public officials. No prosecutive powers or functions are assigned to the Commission.

The Committee has found particularly useful two recent publications of the Commission "Syndicated Gambling in New York State" and "An Investigation of Law Enforcement in Buffalo" both published in early 1961.

The Commission's View of Gambling

It is the considered view of the Commission that

"The main font of organized criminal power today flows from three sources - professional gambling,

labour racketeering and narcotics.

Easily the most profitable to the underworld and most corrupting of the three - and thus the most dangerous to society - is professional gambling. Expressions of this view may be found in the writings of the principal authorities who have examined the criminal problem. These authorities are in agreement that the best way to cripple organized crime would be to suppress gambling, thereby shutting off the most important source of criminal revenue.

The average bettor, the police officer who looks the other way, the judge who lets off a persistent violator with a light fine, still do not seem to comprehend the fact that by their actions they aid and actually encourage the government of the underworld."

Bookmaking in New York State

In its investigation of syndicated gambling in Central New York State, the Commission decided to concentrate upon bookmaking. This decision was based upon the propositions,

- (1) that, to quote from the Kefauver Report,
"the heart of illegal gambling is bookmaking"
- (2) that bookmaking is the most representative form of gambling, attracting players from every level of the community
- (3) that the bookmaker cannot operate alone, requiring some sort of organization behind him.

Investigation disclosed the existence of more than one hundred bookmakers. Nearly all were doing business in private premises. Some acted only as "bookmakers bookies" accepting only large lay-offs. Their individual volume ranged from five hundred dollars to twenty thousand dollars a day. Nearly all the bookmakers had criminal records for a wide variety of crimes.

In a later investigation, it was discovered that there were, at least, an additional hundred bookmaking groups in operation.

The Commission is convinced that the total gross volume of bookmaking in Central New York State during 1959 could be said to have reached approximately one-half billion dollars with a net profit of at least fifty million dollars. The population of the area under investigation was approximately five million persons.

A number of specifically named New York gamblers and locations denoted by the Kefauver Committee in 1951 were found by the Commission to be still in operation.

The evidence which has been gathered and forwarded to local law enforcement agencies led to the prosecution and conviction of many of those charged. At the time of publishing the report, proceedings against a substantial number had been stayed as a result of federal court decisions precluding the introduction of evidence obtained by wire-tapping.

These investigations and prosecutions were followed by the widespread publication of the full nature and extent of the problem disclosed. Towards this end a public hearing was held and a report printed. This report, entitled "Syndicated Gambling in New York State" is of particular importance in that it contains a detailed analysis of the bookmaking operation in that state.

How New York Bookmakers Operate

The true problem of illegal bookmaking is epitomised in the Commission's definition of a bookmaker as an individual who accepts wagers from the public, with a method of operation designed to enable him to realize a profit regardless of the outcome of the contest or event on which the bet is placed.

How does the bookmaker ensure that he is a businessman and not a gambler?

The Commission put the percentages of bookmaking on each sport as follows:

Horseracing	42%
Baseball	30%
Basketball	15%
Football	12%
Boxing	1%

Sports Betting

The businessman bookmaker will vary his operation according to the nature of the bet involved. To quote once again from "Syndicated Gambling in New York State":

"On all athletic and sports events other than horse and dog racing, the bookmaker is faced with the problem of evaluating the strength of two adversaries and then, through a point spread or the assignment of odds (called "the line"), evening out the two sides. If the handicapping is properly done, the bettor has a choice between two sides whose chances of winning are theoretically about equal. Whichever team he selects, he has a fifty-fifty chance of winning. Yet, for the privilege of betting with the bookmaker on the even bet, the player must give odds. The bookmaker's margin is referred to as "vigorous". This is the cornerstone of bookmaking and, indeed, all other forms of professional gambling.

The examination of bookmaking margins in three different sports shows the significance in practice of setting points and odds.

In the case of baseball the evening up process is done entirely through the assignment of odds. Giving the weaker side a one or more run handicap has not proven a satisfactory or popular measuring rod for this. Bettors wishing to wager on strong Team A will have to give odds at a ratio of, let us assume, 8 to 5. This means the bettor must post eight dollars to win five. On the other hand, supporters of Team B

will receive odds of only 7 to 5, meaning they have to put up five dollars to win only seven dollars. Thus, in the hypothetical situation set forth, the bookmaker receives eight dollars from one bettor and five dollars from the other. If the favourite wins, the bookmaker breaks even; if the underdog wins, the bookmaker wins one dollar out of the thirteen dollars wagered. In New York City, where five is understood to be the basic betting unit for convenience of calculation, the announcement of these odds in published form would ^{look} like this:

Team A 7-8 (five understood) over Team B.

For the sport of football the process of establishing the bookmaker's edge is done in two stages. First, the opponents are equalized by a professional handicapper through assignment of points; then the player is required to give odds. If good football Team C is meeting poor football Team D, the poor team is handicapped by being awarded before the start of the game a certain number of points. In printed form this might read as follows: Team C versus Team D plus 7 (points). Bettors on either team have to put up \$6 to get a return of \$5. For a bettor on Team C to win, Team C must prevail over Team D by more than seven points. If Team C should beat Team D by exactly seven points (the seven point handicap makes this a tie game for betting purposes), some bookmakers, particularly where football pools are involved, collect from both sides.

Basketball and hockey are handicapped in the same fashion as football.

Boxing is handled similarly to baseball except for the expression of the odds. On a given fight odds may be listed, for example, as 2 to 3 (here one, rather than five, is understood to be the basic betting unit). Persons backing the favourite must put up \$300 to win \$100. Those betting on the underdog put up \$100 to win \$200. Here it may be seen that the bookmaker has cleverly allowed himself a wider margin (greater "vigorous") for bookmaking than he has on baseball.

The importance of intelligent handicapping of events (determining points and odds) is thus demonstrable. If the underdog is not given a sufficient artificial advantage the consequences to the whole chain of bookmakers can prove disastrous, since bettors on the favourite will be in the overwhelming majority. In the event of a win by the favourite an overextended bookmaker would face financial ruin."

This line is supplied by a relatively small number of handicapping services. In order for a handicapper's line to be valid it must reflect betting volume as well as sporting information.

Bets Upon Horse-Racing

In the case of bets upon horse-racing, the balanced book is even more difficult to achieve. In North America, bets upon horse races are paid off at "track-odds" i.e., the odds established by the totalisator or pari-mutuel system at the track at which the race is run. This is determined by what percentage of the total money wagered at the track was bet on the winning horse. Neither the biggest nor smallest bookmaker can accurately foretell what those odds will be. The businesslike nature of the operation can only be preserved by two means:

- (a) By using the lay-off to enter, where necessary, into a common or larger pool of bets which is more likely to reflect the distribution of wagers at the track, and
- (b) by getting help from the highest level of bookmaking, the criminal underworld, who because of their vast wealth and organization are able to influence the odds at the track by way of comeback money. The Commission explains it clearly -

"If the combine has received what it regards as an excess amount of bets on a particular horse, it will order (its) agent (at the track) to put through the pari-mutuel machines a specified amount of cash on the horse in question, thereby lessening the odds on that horse".

As the Commission points out, the business of the bookmaker is further protected by an elaborate apparatus for the speedy publication of racing and sporting results, enabling the bookmaker not only to protect himself against fraud, but to provide the bettor with stimulating action.



The Hierarchy of Bookmakers

According to the Commission the operational levels of bookmaking may be broken down into four main classes.

- (1) The men in regular personal contact with the public.
These are said to be the men whom the public envisages when it thinks of the bookmaker. These men rarely book bets themselves and are generally mere agents of a member of the next class.
- (2) The bookmaker who operates over the telephone and may receive bets by telephone from his own agents or directly from the public.
- (3) The bookmaker's bookmaker who does not deal with the public with the exception of very big bettors. He is primarily a layoff centre, the existence of which is basic to the businesslike quality of the bookmaker's operation. If he cannot handle the bookmaker's bet himself, he will relay it into the hands of the final class.
- (4) The "combine" or "syndicate" consisting of "the highest echelons of the organized underworld". Here the unlimited financial resources of the organized underworld of the United States of America are available. It is at this level that the "comeback money" system previously explained will come into operation to balance all bookmakers books by manipulating track odds.

The Telephone

A bookmaking operation such as has been here described can only operate where there is a quick and efficient means of communication not only between the bookmaker and his customer and between

the bookmaker and his sources of "sporting" information but between the various levels of bookmakers themselves.

This need for a means of easy communication is satisfied basically by the telephone.

Other Illegal Gambling

Many other forms of illegal gambling were found to be prevalent in the State including the lottery known as "the numbers" (or policy) game", football and basketball pools, dice and card games, and slot machines.

Each gambling operation was found to be substantially controlled by the criminal syndicate or combine.

Significance of this Analysis

The two major lessons to be drawn from the Commission's analysis of the nature and extent of illegal gambling in New York State are that:

- (1) Considerable ambivalence or ignorance is evidenced by the public in its attitude towards illegal gambling. While realizing that it is "technically illegal" to bet with the bookmaker the citizen apparently does not know or does not really care that a great percentage of the two dollar bets eventually find their way into the hands of the leaders of the underworld. (The total national take from gambling by the underworld in the U.S.A. has recently been estimated at seven billion dollars.)

That this ignorance or ambivalence is shared by the New York courts is manifested by the fact that of the fifty-four bookmakers found guilty and sentenced after

the first series of raids, only two were sent to jail and the fines imposed on others varied from five to five hundred dollars. It will be remembered that these bookmakers were involved in an operation bringing in not less than fifty million dollars annually!

- (ii) The accumulation of vast wealth in the hands of criminals appears to lead inevitably to corruption of law enforcement and other public officers. In this regard, it is frightening for a resident of Ontario to read the other Commission publication to which the Committee has referred.

"An Investigation of Law Enforcement in Buffalo"

Buffalo is 21 miles from Niagara Falls, Ontario, 56 miles from Hamilton, 98 miles from Toronto. The population of the City of Buffalo in 1960 was 532,759. The Metropolitan area of which it forms the centre had a population of 1,306,967.

The attention of the Commission was first directed to Buffalo during the early stages of the investigation into syndicated gambling. In the summary of its activities during 1960, the Commission gives the following short account of the progress and results of the separate Buffalo enquiry. (A separate and detailed report was published in February 1961 under the title "An Investigation of Law Enforcement in Buffalo".)

Preliminary surveys disclosed serious conditions of widespread gambling, readily observed in every form, including an organized policy or "numbers" racket, substantial bookmaking and high stake, professional, card games; extensive commercialized prostitution in established brothels, on the streets and in bars; a large number of bars and taverns in persistent violation of liquor law prohibitions against the sale of alcoholic beverages after hours, against permitting prostitutes to

congregate and solicit on licenced premises, against serving minors, etc., many unlicenced premises operating as speakeasies on grand scales, with professional gambling operations of substantial size, including crap games and roulette wheels.

More alarming than the widespread nature of these illegal operations was the open and brazen manner in which they were conducted. Fear of detection or apprehension by the local police appeared absent. Commission personnel, all new faces in town, were able freely to observe, and, in many cases, participate in illegal activity "cold" and without difficulty. For example, a Commission employee was actually directed by a Buffalo policeman to a location where he could - and in fact did - place a numbers bet.

A more intensive effort commenced in the summer of 1959 when a small task force of Commission personnel took up residence in a Buffalo suburb and began operations, working in a strictly undercover capacity.

Widespread Gambling

The first target was the virulent numbers racket. A carefully planned program of surveillance was initiated. The open and brazen manner of the racket operation made for rapid progress. By mid-October, 1959, the Buffalo unit had identified the major figures and spotted the key locations. Valuable assistance was provided throughout the Criminal Intelligence Unit, Troop A, New York, New York State Police, which had already accumulated a stockpile of extensive intelligence information.

On October 23, 1959, at precisely 3:00 p.m., in co-ordination with the Commission's State-wide bookmaking raids in Central New York, bookmaking and policy raids were also made in Buffalo. Thirteen key policy locations, including four banks, and thirteen bookmaking locations were raided. Eleven top bookmakers and forty-six policy operators including many key figures were arrested. \$52,748.84 was seized and made the subject of tax liens by the State and Federal revenue authorities.

In addition, the raids set off a grand jury investigation which dug even deeper into the racket and resulted in 22 felony and 6 misdemeanor indictments and many follow-up gambling raids.

Voluminous records and gambling paraphenalia seized required many weeks of painstaking analysis by Commission accountants, accountants provided by the District Attorney of Erie County, and experts detailed from the New York City Police Department. Actual reconstruction of the operations of four raided policy banks revealed the annual gross intake of these banks was in excess of \$6,500,000. Of this

2-1/2 to 3 million dollars represented income to the owners, operators and employees of the racket. During the course of the investigation, information was received, and subsequently verified, identifying three additional policy banks. Estimated receipts of these three banks would increase the gross figure well above \$6,500,000 gross. The Commission traced and obtained records from two out-of-State companies supplying note pads used in the recording of numbers bets. The huge sales volume of these pads easily corroborated the Commission's estimate of annual numbers racket income.

Records seized and observations of Commission personnel established that thousands of people in Buffalo bet on the numbers every day; that operations were on an around-the-clock basis; and, that in some sections numbers were played in virtually every store and building, and even on the street in full view of all who cared to observe. Besides the numerous forms of daytime betting offered, there was a special "night number" lottery based on the roll of dice by the operators.

The raids confirmed that Buffalo was the hub of the Central New York bookmaking syndicate. Gross annual intake was estimated at \$100,000,000 and profits at about \$10,000,000.

Vice and Liquor Law Violations

During this entire period, undercover observations of vice conditions were made by the Commission. Flagrant violations continued almost unabated. On the evening of February 17, 1960, the staff, assisted by members of the C.I.U., entered three Buffalo houses of prostitution and several bars where prostitution flourished and served over sixty subpoenas. Those subpoenaed included madams, prostitutes, operators of bars and night clubs and cab drivers. The primary objective of this questioning was to obtain further evidence of the history, nature, extent and details of vice operations in the City.

The findings in the area of vice are fully documented in the Commission's separate Buffalo Report. Thirteen different houses of prostitution were identified, four of which were entered by Commission personnel. A large number of Buffalo cab drivers ran a shuttle system from hotels and bar rooms to the brothels for \$5 "a head". Streetwalkers roamed through many streets and even accosted men in cars and taxis which were stopped for traffic lights. On one occasion, a Commission Agent was solicited in broad daylight at the steps of the Police Courts Precinct. A minister testified that solicitations frequently occurred on the steps of his church, and severely impeded the activities of his church.

Commission personnel were solicited by prostitutes or observed solicitations in 24 taverns and bars. One prostitute testified at the Commission's public hearing that she made as much as \$2,000 a week hustling in these bars. In 46 other taverns and bars Commission personnel observed various other unchecked liquor law violations.

The grand scale of illegal activity - the notorious and persistent nature of the violations - the ease with which Commission personnel were able to participate in and observe illegal activity - the knowledge of the general Buffalo public of the exact locations of the illegal operations - sworn citizen testimony that top echelon police officers had been notified of key locations and top operators - all these and other facts led to the unescapable conclusion that knowledge of the conditions was chargeable to the Buffalo Police Department. This conclusion virtually dictated the next course of the investigation - examination of the operations of the Department itself.

Police Performance against Gambling, Vice and Liquor Violations

In February, 1960, the Commission commenced the enormous task of analyzing tens of thousands of departmental papers and examining many hundreds of witnesses, both police and civilian.

First, police performance was measured against the conditions revealed. Actual count of the slips and code numbers seized on October 23, 1959, indicated 3,560 persons were engaged daily in writing numbers, a misdemeanor, and 182 persons were committing daily the felony of managing a lottery. Yet in the entire year 1958 only 92 gambling arrests, including bookmaking and all other forms of gambling, were made by the entire force. Only 16 arrests were made by all 16 precincts combined. This meagre effort was repeated in 1959 when 103 gambling arrests were made by the entire department, and only 17 by all 16 precincts combined. Most shocking was the revelation that every one of these arrests was for misdemeanors. Not one single felony arrest was consummated during the entire two year period and not one key figure apprehended.

The record for vice and liquor violations was similar. There was a conspicuous total absence of top operators on the arrest lists. For example, one madam who operated at the same address for 38 years had not been arrested since 1953.

Not only were arrests few but sentences were minimal. The total fines for all professional gamblers in 1959 was \$5,875, in comparison with \$10,000,000 profit to bookmakers alone. A single thirty-day jail sentence was the only instance of incarceration of a gambler during that period.

The Commission sought to discover the reason for the breakdown in gambling, vice and liquor law enforcement by analyzing the operations of units responsible on both Headquarters and precinct levels.

The Headquarters Gambling Squad was found deficient in leadership, initiative and personnel. Instead of mounting a sustained, carefully planned attack designed to ferret out the top echelon racketeers, the greater part of the Squad's time was spent in making daylight investigative visits to suspected premises on a hit and miss basis. The Squad was permitted to act completely on its own, with no direction from the Squad Leader. It was free to roam the City - "free lance" as Squad members called it - and choose targets on a day to day basis, without co-ordination or direction. Any slight chance that this "Program" might meet with success was eliminated by stubborn adherence to a policy against rotation of Squad personnel. No rotation had been made in that Squad in six years; consequently the Squad members were known at sight to the members of the gambling fraternity.

The results of the investigative visits should have been clearly predictable. 16,730 visits were made in 1958 and 1959; 16,446 resulted in no activity noted.

Detailed analysis of the Squad's reports revealed that many of the premises visited by the Gambling Squad with negative results were observed by Commission personnel to be in open and persistent violation during the very period of the Squad's investigation. In fact, on a number of occasions, Commission personnel freely placed numbers bets in premises on the same day they were visited by the Squad and given a clean bill of health.

The Headquarters Vice and Liquor Squad was almost a carbon copy of the Headquarters Gambling Squad. Rotation of personnel was rare. The Squad was allowed to roam the City without direction, picking targets on a day-to-day basis as they chose. No real effort was made to strike a blow where it would have any meaning - at the major operators. Instead there were only hit and miss arrests of a streetwalker here or a homosexual there. The madams, the procurers, the tavern owners who permitted and even directed the vice operations on their premises, appeared to enjoy immunity from police action.

The Squad also made investigations of premises pursuant to complaints received from the State Liquor Authority. In many of the premises where the Squad failed to discover evidence of wrong-doings, Commission Agents had personally observed open and persistent violations. Here too, Commission personnel on many occasions observed illegal activity on these premises during the very same time period the Squad investigated and noted no activity.

The situation on the precinct level is typified in the testimony of a Captain of a precinct wherein one could purchase a numbers slip almost anywhere, and as easily as he could purchase a newspaper; where two houses of prostitution, extensive streetwalking and bar hustling were established institutions

and commonly known as such to the general public. This Captain professed complete ignorance as to specific locations, operators, as well as to the general condition. He knew no violators, suspected no premises and, in his opinion, his precinct was clean. This ignorance was echoed by all under his command; patrolmen, detectives, lieutenants - in fact, it was echoed throughout virtually the entire cross-section of police officers questioned. In fact, the various precinct reports required to be forwarded to Headquarters daily and weekly and to reflect premises suspected of gambling, vice or liquor infractions, listed only 13 such premises in all of Buffalo for the twenty-six month period of December, 1958 through February, 1960.

The breakdown in law enforcement brought to mind experiences elsewhere. In its First Report the New York State Crime Commission analyzed a similar situation which occurred in Hudson County prior to 1951. That Commission stated that such open and widespread violations are attributable to corruption induced by bribery or hope of political gain, or incompetence or reticence borne of personal friendship with criminals. Certainly the presence of one such factor invariably creates a strong impression of one or more others. To these causes cited by the Crime Commission must be added another: a general attitude of tolerance and indifference towards professional, syndicated gambling activities by those in law enforcement, be they police, prosecutors, or criminal courts."

Examination of the detailed report discloses further interesting information.

Evidence indicated that a Desk Lieutenant with 29 years service was operating a bookmaking business in Police Headquarters itself. This was a \$300 to \$500 a day operation.

An estimated 25,000 "courtesy cards" were issued annually by Buffalo police officials and organizations. These cards carrying the imprint of the Buffalo Police Department, bore a request that the bearer be extended "courtesies" by members of the Department. The true nature of the cards is obvious when it is realized that the police organizations issuing such cards ranged from the "Traffic Men's Association" and the "Radar Club" to the "Police Captains Association" and the Commissioner of Police himself. Twenty such cards were found to be in the possession of criminals arrested in raids staged by the Commission including two signed by the Commissioner of Police himself.

The Committee wishes to emphasize that it was the view of the Commission that such a breakdown in law enforcement is directly related to the accumulation in the hands of criminals of the vast sums involved in illegal gambling operations.

The Commission on the conclusion of its investigations and public hearings made certain recommendations. In the case of the Buffalo investigation these recommendations were concerned with police training and organization. Despite the widespread publicity given to the shocking conditions in law enforcement, the Commission regretfully concluded, six months later :

In broad conclusion, all that has happened is merely that the same personnel run the Buffalo Police Department in a slightly different form. Those with previously inadequate conceptions of command responsibilities, enforcement of discipline and administrative supervision continue in the same positions with the same responsibilities. A captain whose performance was wholly inadequate in one precinct now is a captain in another precinct. A lieutenant whose performance on the gambling squad was wholly inadequate is still a lieutenant on the gambling squad, together with almost identical squad personnel, and so on down the roster. Symptomatic of this general condition is that almost all the same personnel have remained in the front line of Buffalo law enforcement in the key areas of gambling and vice - touchstone of Departmental attitudes towards really cleaning up these most sensitive and yet indicative areas."

With reference to the general problem of illegal gambling, the Commission made the following observations:

- (a) the basic tools (to combat syndicated gambling) already are at hand; the main problem is to improve the effectiveness of an existing enforcement under existing law (1960 Report p.17).
- (b) certain legislative changes at both Federal and State level would greatly facilitate the task of law enforcement in this area.

Legislative Proposals made by the Commission

State Legislation

1. Enactment of a statute prohibiting the interstate transmission of gambling information for illegal gambling activities by communications facilities. The definition of gambling information in this statute should be sufficiently broad to include furnishing the "line" (or points and odds), acceptance of wagers or "laying-off" of bets in various types of gambling, as well as the results of horse races and specifically including so-called "pitch-catchers" arrangements.
2. Enactment of a statute permitting the immediate closing for a specified period of premises in which professional gambling has been conducted.
3. Enactment of a statute establishing a presumption that monies found in a gambling premise, or on the person of one present at a gambling premise at a time when an illegal gambling operation is in progress, are monies involved in the illegal gambling operation and hence subject to forfeiture; the term "gambling premise" is confined to the actual area of an illegal gambling operation.
4. Enactment of a statute giving the Governor the power to inspect, and to delegate to appropriate investigative or prosecutive authorities the right to inspect, State income tax returns for official investigative or prosecutive purposes. A similar power with respect to Federal income tax returns is now vested in the President of the United States for Federal purposes and experience under that system has been satisfactory.
5. Amendment of Section 580-A Penal Law, to add gambling felonies to the enumerated list of felonies for which it is a felony to criminally conspire.
6. A modern, adequately staffed and equipped police academy, open to all law enforcement officers in the State, should be established to provide leadership and vital assistance in raising the general level of police training in this State. Such a facility would offer extensive training courses to new recruits as well as in-service training; it would also keep abreast of changing criminal problems, such as syndicated gambling and other rackets, where technical knowledge and competence are essential.

Federal Legislation

1. Enactment of the provisions of former Senate Bill S. 3340 and House of Representatives Bill H.R. 11589 (companion bills) 86th Congress, 2d Session (1960), to amend the Federal Communications Act, Title 47, United States Code, so as to allow the states to use court-authorized wiretaps where state law so permits.

2. Enactment of a statute to prohibit the transmission of general gambling information, as defined in the proposed bill, concerning horse or dog racing events in interstate and foreign commerce by means of interstate communication facilities.

3. Enactment of a statute to broaden the effect of the present Federal statute prohibiting the transportation of gambling devices in interstate and foreign commerce.

4. Persons who hold or should hold Federal wagering tax stamps, pursuant to the requirements of the Internal Revenue Code, Title 26, United States Code, Sections 4401, et seq, should be required by statute, or specific Treasury Department regulation, to keep detailed and accurate financial books and records of their gambling activities.

Three recent Federal Acts are set out in Appendix B, p.126.

CHAPTER 5

Conclusions drawn from Experience in Other Jurisdictions

In no case has it proved possible to effectively prohibit off-track bookmaking or any other illegal gambling enterprise for which there was widespread support.

In Great Britain and the Republic of Ireland, the problem of enforcement has been met by changing the law so as to permit substantially the previously illegal practices. This has been coupled with a strenuous effort to enforce the remaining prohibitions. In both these jurisdictions, legalisation has been effected by licensing private individuals to carry on the legalized gaming operations.

In Norway and Sweden, faced with widespread evasion of the prohibition against football pools, the States authorized the operation of State pools to meet the demonstrated demand.

In New York State, attempts are still being made to enforce a gambling law similar to that in the Canadian Criminal Code. These attempts have not, as yet, proved effective despite the important work being done by the Temporary Commission of Investigation and other law enforcement agencies.

It is the view of your committee that the following conclusions may be drawn from an examination of the experience in other jurisdictions.

1. Law regulating gambling on a pattern similar to that contained in the Criminal Code has not proved workable in other jurisdictions.
2. Such ineffective regulation produces the following results:

- (a) General disrespect for the criminal law as a whole.
- (b) Corruption or suspected corruption of law enforcement agencies with consequent loss of public confidence in such agencies. Suspected corruption, even if not well founded, may have a disastrous effect upon law enforcement.
- (c) Loss of morale in such agencies as a result of the failure of many police officers to regard as fair and reasonable the laws which it is their duty to enforce.
- (d) The concentration in the hands of criminals of the vast sums of money expended in unlawful gambling. In Great Britain, the Republic of Ireland, Norway or Sweden there is no suggestion that these proceeds were being used to finance operations of a general criminal nature. There is strong evidence to indicate that the proceeds in the United States of America are so employed. /

TITLE TWO

ONTARIO

CHAPTER 6

The Pattern of Gambling in Ontario

In considering the pattern of gambling in Ontario and the problems of enforcing the present law, the Committee has received great assistance from the work of a Select Committee of the Parliament of Ontario sitting in 1951.

The Select Committee was set up to consider certain matters relating to law enforcement and devoted a considerable part of its efforts to an examination of problems arising out of unlawful gambling. Regrettably no report was prepared by the Select Committee due to the prorogation of Parliament. The Committee has, however, benefitted greatly from a careful study of the almost four thousand pages of evidence in the transcript of the public hearings.

The Committee is in no position to make any report on the exact extent to which illegal gambling flourishes in Ontario. That there is substantial illegal gambling may be stated with confidence, not merely upon the basis of information obtained informally from law enforcement agencies and other bodies but also upon inference from the extent to which illegal gambling has developed in similar jurisdictions with similar laws.

As will be seen the Committee has concluded that effective enforcement of the existing anti-gambling law is extremely difficult and probably impossible under present conditions.

In the following chapters, the Committee will deal with the problems arising in the attempted enforcement of laws prohibiting or regulating certain types of gambling operation. The classification adopted is as follows:-

- (i) Illegal betting on horse-races
- (ii) Illegal betting on other sporting events
- (iii) Gaming houses or gambling clubs
- (iv) Pool-betting on sports
- (v) Bingo and Lotteries

In examining the problems under each classification, we have asked two basic questions related to our earlier general proposition that the present law is intended to afford reasonable satisfaction for the gambling urges of the citizen and that the prohibitions and regulations are presumed to be enforceable.

These questions may be stated:

- (i) Is there an adequate legal outlet and, if not what law enforcement considerations would govern the creation of a legal outlet or the expansion of an existing legal outlet?
- (ii) Can the present prohibition or regulation be enforced and, if not, what type or level of regulation is enforceable?

The Committee accepts certain propositions as axiomatic in this area.

- (i) Demand for an illegal service will tend to create a supply of that service.
- (ii) A law can be enforced in a democratic community only where the majority of the population respect and support that law.

In other words, to be enforceable criminal law must be realistic.

CHAPTER 7

Illegal Betting on Horse-Races

1. The Existing Legal Outlets

It is perfectly legal for any two individual citizens to make a wager in any form upon the outcome of a horse-race within or without Canada.

Further, a citizen may lawfully attend at any Ontario race track which operates a pari-mutuel betting system, legal under the provisions of Section 178 of the Criminal Code.

No figure is available as to the volume of private betting. Figures are available as to the volume of money wagered at the various race tracks. The Committee fully appreciates that the amount wagered does not equal the amount expended or consumed in race track gambling as the total turnover represents only the total of a series of wagers many of which may be out of winnings (i.e. re-speculation). In fact, the actual amount expended by the public is the percentage taken from the tote pool for the track and government taxes (15-1/2%). Of course, this loss is unevenly divided amongst those that have wagered.

For those who are not familiar with the operation of a pari-mutuel system it should be explained that under this system all bets are placed in a common pool and that after deduction of taxes and other deductions, the balance remaining is divided amongst the holders of winning tickets.

The Operation of the Existing Legal Outlet

The present on-track pari-mutuel betting is operated under the supervision of the Minister of Agriculture who may make regulations governing such operation. Martin's Criminal Code (1955) at p. 331 says "(the) general effect has been to place the system of pari-mutuel betting . . . under the control of the Minister of Agriculture".

Is the Existing System a Private or a Government Outlet?

The Committee wishes to emphasize that the existing system is in fact a private operation. The present pari-mutuel betting in Ontario is operated principally by the Ontario Jockey Club Ltd. (and affiliated companies) a profit-making company which under the present Criminal Code is entitled to deduct 9% of the total pool for its own purposes. It is to be noted that the Ontario Jockey Club Ltd. is operating at a net profit after taxes.

Net Profit (disclosed by Annual Reports)

1959 - \$1,020,452

1960 - \$1,282,509

This overall profit is drawn from admissions, other profits and the share of the money wagered.

Detailed figures of the money wagered at various Ontario tracks is set out below:

It should be borne in mind that from 1950 to 1958, the number of racing days gradually increased, the provincial tax declined from 12-1/2% to 6% and from 1955, a federal tax of 1/2% to 1% has been imposed.

Year	Days Raced	Amount Wagered	Tax Prov. %	Tax Fed. %	Tax Dollars Prov.	Produced Fed.	Purse Distribution	% Purse to Hand
1940	98	\$12,859,371	5		\$ 642,968.55	\$	\$ 528,400	4.109
1941	98	13,650,148	5	5	682,507.40	682,507.40	547,100	4.008
1942	98	16,920,749	5	5	846,037.45	846,037.45	560,000	3.309
1943	98	21,031,397	5	5	1,051,569.85	1,051,569.85	617,000	2.934
1944	98	22,845,441	10	5	2,284,544.16	1,142,272.05	726,600	3.180
1945	98	26,218,656	10	5	2,621,865.65	1,310,932.80	747,000	2.849
1946	116	30,754,559	10	5	3,075,455.92	1,537,727.96	912,300	2.966
1947	124	29,034,034	10	5	2,903,403.40	1,451,701.70	1,217,050	4.191
1948	144	37,368,215	10	5	3,736,821.50	103,301.60	1,572,350	4.207
1949	146	38,578,514	10		3,837,851.40		1,671,170	4.331
1950	145	32,925,152	12-1/2		4,115,652.57		1,652,850	5.020
1951	148	37,606,139	10-14		3,999,258.20		1,742,300	4.633
1952	146	41,602,068	8-12		3,627,839.83		1,850,300	4.447
1953	159	50,000,916	8		4,000,073.28		2,225,950	4.451
1954	166	57,131,423	7		3,999,199.61		2,492,450	4.362
1955	165	57,273,792	7 1/2%		4,009,165.44	173,135.35	2,574,600	4.495
1956	186	70,702,717	6 1/2		4,242,163.02	353,502.48	3,155,400	4.462
1957	188	75,493,319	6 1/2		4,529,599.14	377,455.44	3,243,900	4.296
1958	196	83,498,483	6 1/2		5,009,908.98	417,481.01	3,491,200	4.181
1959	196	84,862,840	6 1/2		5,091,770.40	424,302.75	3,684,500	4.341
1960	196	90,215,665	6 1/2		5,412,939.90	451,066.68	3,786,200	4.196

Harness Racing

Year	Days Raced	Amount Wagered	Tax Prov. %	Tax Fed. %	Tax Dollars Prov.	Dollars Produced Fed.	Purse Distribution	% Purse to Handle
1953	34	\$2,271,995	8		\$ 181,756.40		125,500	5.524
1954	35	2,395,657	7		167,695.99		152,830	6.379
1955	35	2,698,561	7 1/2		188,899.27	11,645.38	137,200	5.084
1956	32	3,256,255	6 1/2		195,375.30	16,279.44	149,790	4.60
1957	39	4,919,680	6 1/2		295,180.80	24,596.10	198,692	4.038
1958	50	6,404,112	6 1/2		384,246.72	32,017.52	299,153	4.671
1959	49	7,631,962	6 1/2		457,917.72	38,156.68	318,430	4.172
1960	51	8,641,397	6 1/2		518,483.82	43,203.94	379,975	4.397

Total wagered in 1960 - \$98,867,062

The Committee has noted that the racing associations are the only private (i.e., non-charitable and non-religious) body permitted to operate a substantial legal profit-making operation on gambling in Ontario.

The Committee has further noted that the beneficial effects on racing of such operation have been commented upon by no less august a body than the English House of Lords.

In the House of Lords debate on The Gaming & Betting Bill, Lord Norrie pointed out that he had

"....attended two race meetings at a place called Woodbine - nothing to do with cigarettes - some 12 miles outside the city. Bookmakers in Canada also are illegal, and race-courses, apart from the subscriptions they get from club members and entrance fees, largely depend on what they receive from the totalisator. I have seldom seen - in fact, never seen - better stands for members and the public, and the jockeys' changing rooms were something quite out of the ordinary, with sitting rooms, a small room for lunch or tea, a

room for racing colours to be hung, a room with a "sweat box" and Turkish bath, a massage room with a masseur, a room in which film control of each race can be shown to the jockeys, wonderful wash and bathrooms and lastly a room with double-decker bunks where jockeys who have perhaps ridden in the first race and want a rest can lie down, if they wish to do so, until they have to ride again. It may be luxury but it certainly impressed me."

Legislative History of Betting on Horse-Races

It would appear that since the turn of the century there has been a gradual legislative curtailment of bookmaking. In the 1906 Criminal Code, s. 235, there were no restrictions on betting with bookmakers on the race course of an incorporated association during the actual progress of a race meeting and there were no restrictions laid down in the Code on the number of days of racing allowed.

The bookmaker at the track could not operate from an enclosed or designated place but had to keep moving or else he could be charged with keeping a "place" for betting. It was also not illegal to engage in street bookmaking.

Evidence was given before a Special Committee of the House of Commons in 1910 (Vol. 45, Journal of the House of Commons, p. 14) that there was a "good deal" of street bookmaking in Toronto.

Then, in 1910, the section was re-enacted, restricting the number of racing days of a race-association.

The Legislation provided for a maximum of 14 racing days a year by each association with an interval between each 7-day period. There did not appear to be any restriction on the number of racing days at each track.

Street bookmaking was eliminated by widening the definition of a "place" and the anomaly that allowed bookmakers to operate at the track only if they acted in a disorderly manner by moving about was ended. Bookmakers could now have a fixed location at the track.

In 1912, the Section was again repealed and re-enacted. Again, no interference was made with bookmaking. The Section now limited the racing days "on any one race-track" as well as for each association.

In 1920, the pari-mutuel system was introduced and the bookmaker was ushered out.

The Association's take ranged between 7% and 3% - where the total amount staked was over \$50,000, then the percentage deducted was 3%.

There was a further clarification of the legality of bets made apart from the "tote" in 1922 by limiting private betting by the introduction of the words "the winner of bets between not more than 10 individuals" and "to a private bet between individuals not engaged" in the business of betting.

In 1923, the percentage deducted from the tote was increased by allowing a deduction of 3% on the amount over \$50,000 but a greater percentage on each \$10,000 below that amount up to 7% on the first \$20,000.

The Committee notes that in introducing the amendment to the Criminal Code which in 1920 made bookmaking illegal and instead permitted the operation of a pari-mutuel system, the then Minister of Justice (Rt.Hon. C. J. Doherty) justified the restrictions which were to be imposed on the pari-mutuel operation. He said (House of Commons Debates 1920 Vol. IV p. 3415)

"The purpose is to create a situation where no association will have the privilege of organized betting on its race-track if the association is one that is in the business for what it can make out of it. It will prevent there being any big haul for the gentlemen who want to engage in this organized betting as a business and we expect that it will reduce the race-tracks to those which are controlled by people who bona fide, carry on their racing for the sake of the sport and to whom the betting feature is purely incidental."



The Committee observes that under the legislation then introduced, the permissible deduction varied with the amount staked and that where over \$50,000 was staked only 3% could be deducted. Under present legislation a flat 9% is taken.

How did this increase in the associations' take come about?

Since 1920 there has been a constant increase in the percentage that can be deducted from the "tote" for the promoters of the race. The numerous statutory changes are set out in Appendix A, p. 123. Until 1952 the percentage varied with the size of the stake. It should be noted that the permissible percentage was not calculated on the profits of the association, or their yearly or daily turnover, but simply on the size of the stake for each race.

In 1952, the variable percentage was eliminated and a flat 9% figure was substituted. The proposer of this amendment (hon. Alphonse Fournier for the Minister of Agriculture) in the House of Commons (House of Commons Debates, 1952 R.S.C. vol. 4 p. 3371) said "it is recommended for the purpose of a more efficient supervision and administration". The Hon. Mr. Fournier pointed out that at that time, using the sliding scale, "the amount retained by racing associations throughout the country is calculated at the rate of 9 per cent on the amount of money wagered in respect of 85 per cent to 90 per cent of the races run."

No discussion took place as to the effect of the change on the profits of different associations throughout Canada.

The Committee notes that the change might well have been a windfall to larger operators and expresses its surprise at the fact that an Amendment such as this should be based simply on the consideration of "more efficient supervision and administration."

Effects of the Existence of such a Legal Outlet upon Law Enforcement

Two things should be noted about the existence of such a limited legal outlet:

- (a) There are great social inequalities in such a system. Those who can afford to take the day off to attend the races may place a legal bet at the race-track. Those who cannot attend are in substance debarred from legal betting as it is unlikely that they will find a private individual prepared to take a bet at track odds.

There is a clear analogy here between the situation in Ontario and that in England where only those with a sufficient credit-rating could place a legal off-track bet. It will be remembered that the English Government felt that such a distinction could no longer properly be maintained.

- (b) The existence of the legal outlet has drastic psychological effects not only upon the public, but upon law enforcement personnel in particular.

"If a person can bet legally at the track, what is wrong with him betting off-track?" is a question far too frequently encountered. To most people, the distinction between a contribution to a common pool and a contribution to the coffers of the underworld is still regrettably far from clear.

2. The Existing Illegal Outlets

For reasons which will shortly appear, the Committee finds it necessary to draw a distinction between illegal betting on races within Ontario and races outside Ontario. From information received from both public and private sources, the Committee is satisfied that there is a vast amount of illegal bookmaking on both types of events. It seems clear that the illegal substantially exceeds the legal volume.

It should be noted that the bookmaker is prepared to accept bets on races both within and without Ontario, which the present pari-mutuel system is not. He will also permit credit betting, not available at the pari-mutuel. The use of the bookmaker has a further advantage to the large bettor in that he may place a large amount of money without directly affecting the track odds i.e., if placed at the last minute, the bookmaking agencies may be unable to lay-off this money at the track before the start of the race.

(a) Racing in Ontario

The Ontario bookmaker has a great incentive to satisfy the undoubted desire of those who wish to make a bet without attending the particular meeting. Not only may he balance his books by way of the line (or forecast of the eventual track odds) and the lay-off, but he may rest assured of a guaranteed safety

(or profit) margin.

As has been pointed out earlier with reference to New York State, bookmaking operations in North America are based upon track-odds established by the ratio of bets placed upon the various horses on the pari-mutuel system at the track in question. The bookmaker is protected against a long-odds winner in that a limit (e.g. 15-1) is imposed by him on any winning bet.

Supposing that the amount of illegal betting equals (or is in the same ratio as) the amount of money paid into the pari-mutuel system, it must be noted that the total in the pari-mutuel system is decreased by the deduction of 9% for the track, 6% provincial tax and 0.5% Federal Tax before the odds are calculated (total 15-1/2%). In such a situation a bookmaker whose "pool" is not subject to any such deduction has a 15-1/2% operating margin.

This "vigorish" might be reduced by a reduction in taxes and other deductions.

(b) Racing Outside Ontario

The bookmaker's angle here is that there is no legal outlet for those who wish to bet on races outside Ontario. The same failure to pay taxes and deductions for the track provides him with the same vigorish.

3. The Problems of Enforcement

Public Support for Enforcement

Probably the greatest problem in enforcement is the lack of public support. As has been remarked earlier, the public has failed to appreciate that a great proportion of illegal two-dollar bets find their way into the hands of the underworld. The notion that there is nothing wrong (i.e. socially dangerous) with illegal betting is still alarmingly prevalent. Police forces in Ontario report that they have very few complaints from citizens with reference to bookmaking operations.

Difficulty of Obtaining Evidence

The hierarchical nature of the bookmaking operation set out earlier in this report is of great significance in this problem of detection and proof. In simplified form, bookmaking is carried on through a series of "front-ends" and "back-ends".

The Front-End

It is the front-end which is in direct contact with the bettor. It may consist of a street bookmaker, a cigar-store, a hotel employee or any other unit in convenient contact with the public.

The bet may be briefly recorded at the front-end before being passed on to the back-end where the book proper (or accounting record) will be maintained. The passing of this information is typically by telephone.

Records at the front-end being intended to be passed on to the back-end at the earliest opportunity need only be in temporary, rather than permanent form. Typically, they will be recorded on sheets of glass or formica which can be wiped clean in a second with a damp cloth. A recent development is

the use of nitro-glycerine soaked tissue, called "flash-paper", which will disintegrate at the touch of a lighted cigarette.

Even surprise raiding by police is unlikely to secure these front-end records which would prove the nature of the activity carried on.

Further, these front-ends are numerous and easily replaced.

It would appear that the front-end represents the public image of the bookmaker. That this is a false-image or front is apparent from our earlier examination of bookmaking.

The Back-End

The key to effective enforcement of the law prohibiting bookmaking appears to be the detection and conviction of those operating the back-ends.

The physical location of these back-ends is not known to the public although the trend is to enable a bettor to place his bet directly with the back-end by the use of the telephone. As has been pointed out, a back-end will also receive by telephone the bets placed at the front-end or ends which it services.

Under present conditions, as it will appear, it is extremely difficult for police to obtain the information as to the physical location of these premises which would enable them to raid the premises and seize the records which must be maintained there in semi-permanent form for accountancy purposes.

The Lay-Off Centre

Depending on the volume of business transacted, a back-end may also provide lay-off service for other bookmakers. Alternatively, a separate lay-off centre may exist. Such a separate lay-off centre will operate by telephone and the same considerations as apply to the detection

of back-ends will operate.

Other Factors

The problem of detection is further compounded by the fact that certain "chartered clubs", as will be explained in Chapter 9, are operating both as betting halls (or horse-rooms) and back-ends. The special legal privileges which are said to be afforded these clubs have operated as a substantial bar to proper enforcement.

Finally, there does not appear to be any national clearing house through which information as to gambling activities and techniques could be disseminated to local law enforcement agencies. In view of the national and international nature of gambling operations this is a very severe handicap to enforcement.

The principal obstacle to law enforcement remains, however, the invention and widespread employment of the telephone.

4. The Telephone

Bookmaking in its present form could not long survive if denied the use of the telephone.

The telephone affords the most direct clue to the identity of those operating back-end and lay-off centres.

It is the view of the Committee that these two propositions can not be refuted.

(a) The use of the Telephone

The principal supplier of telephone service in Ontario is the Bell Telephone Company. Under its Charter, the Bell Telephone Company is required to furnish service under certain geographical conditions to any person requiring telephone service "for a lawful purpose".

Back-ends may require unusual telephone service; for example, the installation of a number of lines and instruments in a small apartment, house or office. The first question which arises is whether the Telephone Company should furnish such service. To the proposition that it must seem suspicious that a large number of telephones are required by a small establishment, the Telephone Company replies that there are many legitimate businesses which are carried on largely by way of the telephone; e.g. market research and canvassing; that where circumstances point to an illegal purpose it is the policy of the Company to investigate; further, it is the opinion of the Company that in view of the proposition that everyone is presumed innocent until proved guilty, the task of finding an unlawful purpose is best left to a court of law.

The present law is conveniently illustrated by an account of the following case:

Bossin v. Bell Telephone Co. of Canada (1943) 55 C.R.T.C.
p.196

(Before The Board of Transport Commissioners for Canada,
Dec. 7, 1942)

"The applicant David Bossin, who published a sporting paper called the "Weekly Sportsman", occupied a one-story bungalow at 16 Royal York Road in the Township of Etobicoke, which premises were in a residential area. At these premises he had a telephone service including a switchboard with fifty-six lines in a cable, of which forty-six lines were active and ten inactive.

In consequence of certain letters received from the Deputy Attorney-General of Ontario and from the Commissioner of Police for Ontario alleging, in effect, that the applicant was using these telephone facilities unlawfully, the Company discontinued the service (except to one telephone and one line in operation), and refused, although repeatedly requested to do so, to reinstate such service.

The applicant applied to the Board of Transport Commissioners for an order directing the Telephone Company to resume the service the applicant had received under his

contracts with the Company prior to its discontinuance by the Company.

It was not established that the telephones or services were, in fact, being used for an unlawful purpose.

In the Board's opinion, the discontinuing of the service of the applicant constituted breaches by the Company of the contracts for the furnishing of telephones and service by the Company to the applicant.

Held, that the Telephone Company be directed to restore to the applicant forthwith the telephone service which he received under his contracts with the Company immediately prior to the discontinuance of such service on October 16, 1942.

The Board placed upon the Telephone Company the burden of justifying its withdrawal by proof of unlawful use i.e., no burden was placed upon Mr. Bossin establishing that he required the elaborate installation "for a lawful purpose".

The telephone Company also points out that when a subscriber-bookmaker pays his fine or pays such other penalty as the convicting court may impose, he is once again in the position of an innocent citizen to whom they are bound to give service for a lawful purpose. The practice is to resume service upon the subscriber signing an undertaking that he has departed from his evil ways.

The Committee has noted that prior to 1950, it was police practice to seize any telephone installations found in the course of a search of suspected gambling premises. These were seized under the authority of Section 171 to seize anything "that may be evidence that such an offence is being committed." Such seizure could be followed by confiscation or destruction.

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In 1950, an amendment to the Criminal Code exempted telephone or other communication facilities owned by a person providing communication services to the public from such seizure, forfeiture or destruction.

(b) The Telephone as a Clue to the Identity of the Bookmaker

As has been pointed out, the principal obstacle to the detection of the physical location of the back-ends is the fact that they may conduct all their business by telephone.

The telephone differs from most traditional means of communication in that records of the identity or exact location of the sender and receiver of a message may never be written down and there may thus be no record of the passing of any messages between certain parties. Even in the old manually operated telephone exchanges, no records were kept of local calls which were charged at a flat rate.

Until comparatively recently, records were kept of the parties to long-distance telephone calls. Such records were made available to police upon production of a search warrant and were of the greatest value where the record showed that one telephone number was being called repeatedly by a known front-end or series of front-ends.

Recent technical and accounting developments have, however, almost nullified the value of telephone records for detection purposes. In the case of Direct Distance Dialing, only the number of the party placing the call may be recorded. (In the public interest, the Committee will not disclose all its information as to the details of the accounting records). In cases of charge and credit card calls only the number to which the call is to be charged may be recorded. Wide Area Telephone Service under which a subscriber pays for long-distance calls at a flat rate may soon be introduced.

For detection purposes, the police must know the number that has been called.

Not one Canadian law enforcement agency to whom the Committee has talked suggested that it would be necessary or desirable to resort to wire-tapping in order to obtain the necessary information as to the identity of the party called. The police maintain that they do not want to hear what is said-- they want merely to discover the number which has been dialed.

Whenever, in the past, suggestions have been made that there should be interference with telephone communications, the objections have always been related to wire-tapping and consequent breach of confidence between the Telephone Company and its subscribers.

There is in existence a simple and comparatively cheap device known as the "Pen" or "Dial" Register which may be attached to a subscriber's telephone line without his knowledge and without interference to his telephone service. This device will automatically record all numbers dialed by the subscriber. It will not "listen to" nor record any conversation transmitted. In other words, without any serious invasion of privacy, it will record all the information that law enforcement agencies require.

That the present search warrant provisions in the Criminal Code do not operate to permit the employment of such a device, was held in re: Bell Telephone Company (1947) 89 Can.C.C. 196 by McRuer C.J.H.C.

5. Other Sources of Betting Information

Bookmaking requires certain other channels of communication in addition to those required between bookmaker and client and between front-end, back-end and lay-off. As is apparent from

examination of the account of New York bookmaking, the business-like nature of the operation depends upon the prompt receipt by the bookmaker of the line (or forecast of odds), the time the race started, and the results. Similarly the bettor or customer needs information as to the runners, the projected odds, the results and the actual track odds.

At the moment, this information is disseminated by various channels:

- (i) the wire services
- (ii) the daily press including The Daily Racing Form and other scratch and form sheets
- (iii) the radio

The present control upon the dissemination of this necessary bookmaking information contained in Section 177 (1) (f) and (g) appears to be entirely inadequate, restricted as it is to providing such information intended for use in bookmaking and excluding as it does the bringing of such information into Canada by a newspaper or other periodical published in good faith for another purpose.

The Committee acknowledges that such information has a certain legitimate news value but believes that this news value is far outweighed by the value to the illegal purposes which are equally, if not better served.

6.(1) Conclusions of the Committee

Legalisation of off-track pari-mutuel betting on Ontario Races

The Committee recommends that most serious consideration be given to the extension of the present exemption relating to pari-mutuel betting so as to permit government-operated off-track pari-mutuel betting on Ontario races.

It is, moreover, the view of the Committee that the widespread opposition in the U.S.A. to the extension of legalized gambling is based upon the false premise that such legalized activities would necessarily be left completely in private hands. Typical of such approaches is that of Virgil W. Peterson, Operating Director of the Chicago Crime Commission. Writing in Volume 269 of the Annals of the American Academy of Political and Social Science in 1950, Mr. Peterson was of the opinion that

"mass gambling has always resulted in great social and economic ills; and almost every civilized nation in the world has from time to time, found it necessary to resort to repressive legislation in an effort to protect its citizens - a similar pattern - the evils of mass gambling have led to prohibiting legislation, which in turn has frequently been poorly enforced. The never-ending quest for new sources of revenue, plus the difficulty of enforcing the anti-gambling laws, often prompted their repeal and the enactment of statutes which licensed games of chance with the state sharing in the profits. Legislation schemes have in turn increased mass gambling to the extent that the nation has found it necessary again to enact prohibition laws."

Peterson goes on to add that "the legislation of any form of gambling greatly increases its illegitimate offspring".

Distinction between Publicly and Privately Operated Outlets

The Committee feels that a distinction must be drawn between state-controlled and privately-operated gambling enterprises in that:

- (a) The private or free enterprise operation of gambling inevitably leads to commercially motivated promotion and expansion: gambling under government control may more easily be controlled at a tolerable level.

In the view of the 1946 Royal Commission in New Zealand

"it can never be wise for any State to call into existence or to lend recognition by legislation to a class of persons engaged in an uneconomic occupation which has dangerous

potentialities. However innocuous or ethical betting by individuals in small sums within the limit of their means may be, that practice is essentially in the nature of a luxury, and it is undesirable that a class should be created whose interest it is to provoke indulgence in that luxury by ever-widening groups of the community."

- (b) The money applied to gambling through a legal agency need not flow into the coffers of the criminal underworld.

The Committee wishes to make it plain that it does not regard this primarily as a revenue advantage. The great advantage is that the vast amounts of money wagered do not find their way into the wrong hands. Whether this flow be regarded as a source of revenue depends on entirely different considerations. It is again pointed out that by a reduction of the tax, the profit margin of vigors of the illegal bookmaker would be reduced.

- (c) State-controlled agencies would have no incentive to exceed their legal restrictions nor to attempt to corrupt law enforcement agencies.

In this respect, the Committee regards it as significant that the Ontario Government has for many years operated legal outlets for the sale and distribution of intoxicating liquor.

Legalization Restricted to Ontario Racing

The Committee's proposal is confined to pari-mutuel wagering on races held at Ontario racetracks. This restriction is based upon the propositions that:

- (a) it would not be possible for a state agency to pay real track-odds on a U.S. race without recourse to U.S. lay-off centres; i.e., the ratio of bets laid in Ontario would bear no necessary relation to the

ratio of bets laid at the U.S. track;

- (b) the establishment of separate Ontario pari-mutuel pools on U.S. events appears to the Committee to be unrealistic. Under such a system, winners would be paid at odds calculated from the ratio of various bets in the Ontario pari-mutuel pool.

No Licenced Bookmakers

As pointed out earlier, North American experience has shown that bookmakers on this continent cannot be trusted with large sums of money which they are likely to make available for other criminal enterprises.

The fact that the Committee has concluded that legalized wagering can only be extended with respect to Ontario races is a further reason for the decision of the Committee that no system of licenced bookmakers should be introduced in Ontario. It is the view of the Committee that bookmakers, if licenced, would not restrict themselves to accepting wagers on Ontario tracks. The substantial interest which the Committee believes to be shown in U.S. racing would inevitably lead them to accept wagers on such events with inevitable recourse to the criminal lay-off centres in the U.S.A. In this respect the English and Irish experience must be distinguished as the illegal cash bookmaker in those countries has always had available to him legal lay-off centres in the form of the large legal credit bookmakers.

The Practicability of such a Proposal

The Committee is of the opinion that the creation of the proposed off-track outlets is entirely feasible. This opinion is based largely on the New Zealand experience where such an experiment appears to have been undertaken with success. An abbreviated account of the New Zealand

experience is to be found in Appendix C p. 129. This convenient summary is taken from the Report of the Mayor's Citizens Committee of the City of New York on Off-Track Betting, a report which has been of the greatest value to the Committee.

Credit Betting

The Committee is not of the opinion that any good case can be made for the creation of legal facilities for credit betting. There appears to be no disadvantage to the "deposit" system under which a bettor could charge bets against an earlier deposit.

The Benefits to Law Enforcement

The Committee is of the opinion that

- (1) The partial satisfaction of the demands of the betting public, coupled with general public satisfaction with a law which draws a comprehensible distinction between various types of betting would bring public support for stringent enforcement of the remaining prohibitions.
- (2) Satisfaction of part of the demand now satisfied illegally would deprive the bookmaker of profit and thereby make it less worth his while to continue to evade the law.

Proposed Modifications of the Existing Legal Outlet

The Committee is of the opinion that the present private profit-making operation of the on-track pari-mutuel system is an anomaly. As noted, the published accounts of the Ontario Jockey Club Ltd. appear to indicate that the 9% deducted from the "handle" (or total of wagering) contributes to the profit of the Company. It seems to the Committee inconsistent that this sole avenue of private profit in organized gambling

should be allowed to persist, without public scrutiny and control.

As the New Zealand Royal Commission of 1946 wrote:

"There cannot but be the gravest objection to granting to any individual or corporation a commercial interest in gambling involving any possibility of private gain. That objection is aggravated where...such an interest is to be given the benefit of a monopoly enforced under the sanction of the criminal law."

The Committee therefore makes the following recommendations with respect to the operations of the Ontario Jockey Club Ltd., and any other company operating a similar enterprise.

- (i) Any proposed extension of pari-mutuel wagering should not be permitted to result directly in an increase in the profit earned by racing associations. In other words, the Committee does not recommend that the proposed extension be operated on the basis that the associations would automatically acquire a right to the present statutory deduction from the total flowing into the pool from on- and off-track sources.
- (ii) The Committee has considered making a recommendation that no deduction be permitted either from the present on-track pool or the proposed new on-track and off-track pool, and that instead grants might be made as under the English system. In view of the excellent progress in racing which has been made in Ontario under the present system, the Committee is of the opinion that it would be unwarranted to deprive the associations of an assured income by way of some deduction from the pool.

- (iii) The Committee is, however, greatly concerned that the pari-mutuel operation should not lend itself to the possibility that wagering would be promoted for purposes of private gain. That such is possible at present is obvious from the fact that the 9% deduction permitted by the Code applies to all Canadian tracks irrespective of their needs. Possibilities of great private profit exist although the Committee makes no suggestion that anything but a reasonable return is taken by the racing associations at this time.
- (iv) The Committee is of the opinion that where any private enterprise is given a legal monopoly of a particular profit-making activity, it is reasonable that the profits of such enterprise be subjected to public scrutiny and control. The Committee points to the fact that, under existing law, public utilities which are in private hands are subject to such scrutiny and regulation. For example, the Bell Telephone Company is by virtue of its charter subject to the provisions of The Railway Act. Under that Act it is bound to make certain returns as to its financial operations. The rates which it may charge for services are fixed by the Board of Transport Commissioners after public hearings at which interested parties may make representations.
- (v) The Committee, therefore, recommends that
- (a) the present on-track pari-mutuel system should be modified only as to the fixing of the deduction for the racing associations;

- (b) a separate off-track pari-mutuel system should be created either by the Dominion or Provincial Governments. After costs of operation have been deducted, money wagered through these outlets would be paid into the same pool as money wagered on the track at which the particular race took place;
- (c) The deduction to be retained by racing associations from the new common pool should be determined by a body such as the Board of Transport Commissioners on the same conditions as now apply to other privately operated public utilities.

6. (2) Conclusions of the Committee relating directly to Enforcement

Whether or not the conclusions of the Committee as to the above extension be accepted, the Committee strongly recommends the following changes in anti-gambling law and enforcement practices.

- (a) The Committee recommends the enactment of legislation creating authority and procedure for withdrawing telephone or telegraph service from a subscriber, similar to those in U.S. Public Law 87-216 (Appendix B p. 126). Such legislation appears to be necessary in view of the decision in the Bossin Case referred to above.

Such legislation should contain provisions for:

- (i) the refusal or withdrawal of telephone or telegraph service to a subscriber upon notification by the Provincial Attorney-General to the supplying company that the installation concerned is being used for the unlawful transmission of gambling information;

- (ii) an application for supply, continuance or restoration of service to be made by the affected subscriber to a court or other judicial body which would be directed to determine whether the installation was being used "for a lawful purpose"; the burden of proving "lawful purpose" to be upon the affected subscriber;
- (iii) the indemnification of a supplying company acting upon such notification against all liability for damages arising from such refusal or discontinuance of service;
- (iv) the issuance by a criminal court which convicts a subscriber charged with a gambling offence involving the use of the telephone or telegraph of an order suspending the telephone or telegraph privileges of such convict for a definite period.

This provision would operate on the same lines as the present suspension of a motor vehicle operator's permit. As will be seen, a similar device is already employed by the postal authorities in the suspension of mailing privileges.

- (h) The Committee recommends that legislation be enacted extending the powers of a police-officer acting under a search warrant so as to authorize him to require the telephone company upon reasonable compensation, to attach a Pen- or Dial-Register device to the telephone lines of a person whom he reasonably suspects to be involved in an illegal gambling operation involving the use of the telephone. It is repeated that such a device will not eavesdrop or listen in: it will merely record the numbers dialled by the subscriber.

As pointed out earlier, the Committee bases this proposal on the simple proposition that technical advances in communications services have rendered obsolete what was formerly an effective search warrant procedure.

Despite the small interference with privacy involved in the use of such a device, the Committee appreciates that considerable opposition to this proposal may be anticipated. It therefore, proposes that a warrant for such purpose should issue only on the authority of the Provincial Attorney-General.

The Committee has noted that, at the time of the 1951 enquiry by the Ontario Select Committee, it was disclosed that the normal practice with reference to the Ontario Provincial Police was that the investigating officer would apply for a search warrant to the Commissioner of the Ontario Provincial Police.

The Commissioner, acting in the capacity of magistrate, might grant or refuse such application. It is understood that this practice has persisted to the present time and the Committee wishes to make it clear that it disapproves most strongly of such practice which reduces what is intended to be a real safeguard against unnecessary interference to what may well be a mere formal procedure. It is with this in mind, that it confines its proposal to warrants obtained from the Attorney-General himself.

Insofar as there may be an objection to entrusting this power to a member of the Executive, it should be noted that in the United Kingdom, the Secretary of State has power to authorize wire-tapping (which is a much more serious interference with privacy) when he deems it necessary in the interests of the state. In 1956, 159 such wire-taps were authorized in England. It is the view of the Committee that illegal gambling in this jurisdiction may well be regarded as a sufficiently serious matter to justify the much less serious interference proposed.

The Committee is aware that the United States investigations and the investigations of the 1951 Ontario Select Committee, have shown that the more important bookmakers frequently re-arrange or extend the telephone facilities supplied to them in order to avoid detection.

Such re-arrangement or extension is prohibited under Rule 9 of The Board of Transport Commissioners (Canada Gazette Vo. 87, 1953, Rule 9) and infringement of the Rule may result in termination of the original service.

Such re-arrangement or extension may also fall within the prohibition in Section 273 of the Criminal Code (theft of telecommunication service.)

The Committee is also aware that Ontario bookmakers frequently interpose a relay station between the front-end and the recording back-end (which may itself circulate). Where circumstances permit, it is the practice for the back-end to telephone

the front-end rather than vice versa.

That these possibilities of evasion exist does not, in the view of the Committee, weaken the case for the introduction of legislation to permit the use of the Pen-or Dial-Register.

- (c) The Committee has considered recommending that legislation be enacted, prohibiting the transmission or publication by any means or in any form of information as to the projected or actual odds on any race other than one to which the Ontario pari-mutuel system for the time being applies.

While it is true that the bookmaker might obtain this necessary information by private means, the bettor is dependent upon public dissemination of this information. Such prohibition would therefore seriously handicap bookmaking operations on races outside Ontario.

In this respect, the Committee notes that the Ontario Legislature has made an earlier attempt to apply a similar prohibition to the dissemination of this information. In 1923, The Betting Information Act (13 & 14 Geo. V c.5) prohibited the dissemination of a much wider class of information including tips and selections. The Act was short-lived, being ruled ultra vires the Province, by the Ontario Court of Appeal, in the same year (R. v. Lightman (1923), 54 O.L.R. 502).

The Committee does not recommend such legislation for the following reason: any such prohibition to be effective would have to be directed not only to Ontario and Canadian pub-

lications but also to those emanating from the United States. At present such respected publications as the New York Times publish the odds; such publication is not within the prohibition imposed by the law of New York State nor, indeed, within the new U.S. law forbidding interstate and foreign communication of gambling information.

To forbid Canadian media to publish the odds while permitting the sale of U.S. publications which do so would not only be ineffective but discriminatory.

To advocate the prohibition of publication of the odds by Canadian media and the importation of U.S. media which do so, is in the view of the Committee, completely unrealistic. In its view, prohibition of the importation of such newspapers as the New York Times could not be justified on such ground: further, it is aware that no order will effectively prohibit the communication of such information to Canada by United States radio and television stations.

It is the conclusion of the Committee that the Canadian government could reasonably take such action only in the event of reciprocal United States legislation. If such is forthcoming, it should do so. This is but one of the law enforcement problems with respect to which international co-operation is urgently required. The Committee also recommends that the Courts most seriously consider the effect of their present sentencing policy in cases concerning professional gambling. Proper enforcement depends on giving truth to the proposition that "crime does not pay".

The present policy of imposing comparatively small fines merely licences or taxes bookmakers. Even a fine of thousands of dollars may be negligible in the case of a moderate bookmaking operation.

The New York experience has already been set out:
Canadian sentencing records are set out in Appendix D
p. 134.

It would appear that all the legislation proposed above falls within the legislative jurisdiction of the Parliament of Canada and would properly form new sections in the Criminal Code.

CHAPTER 8

Illegal Betting on Other Sporting Events

The Problem

Sports betting in Ontario is on the same basis as that used in New York State. Commonly, the bookmaker balances his book by means of a points spread, i.e., the bettor is required to wager not merely that team A will beat team B, but that it will do so by more than a stipulated number of points. The bettor is further required to give odds, e.g., to wager six dollars in the hope of winning five. Where the bookmaker achieves a balanced book i.e., an equal amount of money staked on each possibility, he is assured of a profit margin of one dollar in twelve. Further, the bookmaker may not pay on ties i.e., if it happens that team A beats team B by only the stipulated number of points, say 8 points. This possibility of profit may be further increased by requiring that those wagering to the contrary stipulate that team B will not lose by more than say 7 points. Such an arrangement would mean that the bookmaker would collect on all bets if team A beat team B by 7 points or 8 points.

The bookmaker may or may not combine the points spread advantage with the odds advantage. In most cases he does.

Not only the general public including the bettors, but the newspaper sports writers seem to be completely ignorant of the true and businesslike nature of the bookmakers' operations in this field.

For example, one well known Toronto sportswriter began his newspaper article on October 6th, 1961, in the following way:

"BOOKIES DISPLAY MORE FAITH THAN ARGO FANS

Local bookmakers have more confidence in Argonauts

than most Toronto fans who've seen them perform this season. The early line held Argos eight-point favourites to knock off Montreal Alouettes tomorrow afternoon in Molson Stadium".

This passage conveniently illustrates the popular misconception of the bookmaker as a gambler rather than as a businessman. To any properly organized bookie it was a matter of complete indifference as to whether the Argonauts beat the Alouettes. If his book was balanced he would take his profit in any event. The eight-point spread taken by the sportswriter to indicate confidence in the Argonauts did no such thing. Instead, it represented the bookmakers assessment of how they could best divide the betting for and against the Argonauts. In other words, that the Argonauts would win by more than eight points was a possibility which would not appeal to all who predicted that the Argonauts might win and hence there was created an entirely artificial difference of opinion on which the bettors would probably be divided in roughly equal camps.

The Committee has been informed that much of the sports betting in Ontario depends upon sporting events (baseball, football and basketball) taking place in the United States.

Bookmaking on American events predicates access to American lay-off centres with all the attendant evils noted in relation to bookmaking on horse-races. (The Temporary Commission of Investigation in New York State reports that they learned of "a Canadian bookmaking operation, engaged in accepting lay-offs from Upstate bookmakers, (which) netted \$500,000 during two months of the baseball season".)

It does, however, appear to the Committee that public interest in and support for this type of gambling is not so wide as that related

to horse-racing. Strict enforcement of the existing law in this area might therefore meet with comparatively small public resistance.

Conclusions of the Committee

- i. The Committee has concluded that there is no possibility of providing a legal government-operated outlet for this type of short-odds betting.
- ii. It accordingly recommends that the most strenuous efforts be directed to ending the illegal bookmaking which is, of course, carried on by the same criminals as operate the bookmaking on horse-racing discussed in the previous chapter.
- iii. For the reason already given with reference to bookmaking on horse-racing, the Committee cannot recommend, in the absence of appropriate United States legislation, that publication or transmission of the morning line relating to any sporting event be prohibited.

CHAPTER 9

Gaming Houses or Gambling Clubs

1. Legal Outlets

Those who wish to congregate in order to engage in games of chance may legally do so, provided that no rake-off is taken by the house and that no fee is charged for participation. The only games which may be played are those in which the chances of each player are equally favourable.

What are described in the Criminal Code as "incorporated bona fide social clubs", while prohibited from taking any rake-off, are permitted to charge players a fee of not more than ten cents an hour or fifty cents a day. Charitable and religious organizations may also charge a direct fee to players in a place which is used only occasionally for such games and where the proceeds are to be used for a charitable or religious object.

2. Illegal Outlets.

That common gaming houses have existed in Ontario is a matter of common knowledge. It is the view of the Committee that there are three main categories of such establishments.

- (a) The gaming house which is primarily engaged in bookmaking. These are the horse-rooms referred to in U.S. investigations and typically they will supply information and facilities for betting on any kind of sport or race. Such a house will also operate as a back-end.

These houses are dependent on the telephone for communication and the wire-service for information.

- (b) The traditional gaming house. Here the primary interest is in playing games, the house taking its profit either by a rake-off or by the operation of a bank which has a statistically better chance than any other player.
- (c) Social gaming clubs which are not operated by professional gamblers but which infringe the law by charging a fee greater than that permitted by the Code.

Of these three categories, only the first two appear to offer any great problem. The betting and gaming houses within those categories are not only sources of considerable income to the underworld but, perhaps even more seriously, serve as underworld clearing-houses (or often well-appointed) thieves' kitchens. They are the nerve centres of crime. There is little or no public support for such operations and the Committee recommends that strenuous efforts should be made to end them.

Problems of Enforcement

The principal problem in the enforcement of the law prohibiting such activities is related to the limited exemption from the prohibition of the "incorporated bona fide social clubs" referred to earlier in this chapter.

The Criminal Code gives law enforcement agencies two special legal devices to assist them in enforcing the prohibition against gaming houses.

- (a) The presumption in Section 169 of the Criminal Code -

PRESUMPTIONS

169. In proceedings under this Part,

From
Obstruction

(a) evidence that a peace officer who was authorized to enter a place was wilfully prevented from entering or was wilfully obstructed or delayed in entering is prima facie evidence that the place is a disorderly house;

From
Device for
Concealment

(b) evidence that a place was found to be equipped with gaming equipment or any device for concealing, removing or destroying gaming equipment is prima facie evidence that the place is a common gaming house or a common betting house, as the case may be;

From
Gaming
Equipment

(c) evidence that gaming equipment was found in a place entered under a warrant issued pursuant to this Part, or on or about the person of any-one found therein, is prima facie evidence that the place is a common gaming house and that the persons found therein were playing games, whether or not any person acting under the warrant observed any persons playing games therein; and

(d) evidence that a person was convicted of keeping a disorderly house is, for the purpose of proceedings against any one who is alleged to have been an inmate or to have been found in that house at the time the person committed the offence of which he was convicted, prima facie evidence that the house was, at that time, a disorderly house.

When these presumptions apply, their effect is to deprive the defence of the right to a directed verdict of acquittal on the ground that the prosecution had not made out a prime facie case. The Court may or may not convict but, at least, the prosecution is freed from the possibility of a directed verdict of acquittal.

(b) The provision in Section 174 that a person found in a common gaming house may be examined by a justice. This is an exception to the general legal rule which requires only that a person shall give evidence at the trial of any other person. The earlier examination provided for,

should be of great assistance to police authorities in preparing their case against the alleged keeper. It appears to the Committee that due to a widespread misunderstanding of the law by police officers, prosecutors and magistrates, full effect is not being given to the first of these special devices, the presumptions.

As we stated earlier, the principal enforcement problem is with reference to the "incorporated bona fide social clubs" or "chartered clubs" as they are more commonly called.

A misunderstanding of the decision of the Ontario Court of Appeal in R. v. Wong and Seto (1950) O.W.N. 24 appears to be behind the current belief that the presumptions in Section 169 do not apply to chartered clubs. The Committee suggests that this mistaken belief may have seriously impeded proper enforcement in this area of crime as it involved the proposition that any club with a charter may wilfully prevent, obstruct or delay a peace officer who is authorized to enter the club without giving rise to the presumption that the club is a disorderly (i.e., gaming) house. The Committee points to the fact that in the Wong & Seto case, the police were not obstructed and gaming was admitted. The presumptions were of no help in such a case, hinging as it did on whether the club was a bona fide social club charging only the permitted fee.

The Committee wishes to emphasize that, in its views the presumptions apply to all premises and that under Section 168(3) of the Criminal Code, the onus is upon an accused of proving that the premises and operation fall within the

exception as to incorporated bona fide social clubs: the mere production of a charter would not discharge this onus.

Conclusions of the Committee

- (i) Given the rectification of this mistaken application of the law relating to the presumptions, the Committee has concluded that the present law is capable of strict enforcement.
- (ii) Those gambling houses operating as betting shops or houses fall within the Committee's recommendations as to illegal bookmaking.
- (iii) The Committee has considered the existing practice of eliminating chartered gaming houses by cancellation of the charter and express its opinion that the control of a serious crime should not be entrusted to a department of government not otherwise responsible for the enforcement of criminal law. If the misunderstanding as to the application of the presumptions were rectified, the existence of a charter would become less significant. Charters should, of course, continue to be cancelled where it is learned that the club is operating illegally but it is the view of the Committee that the emphasis should be on a direct enforcement by way of the Criminal law. In vulgar terms, it appears to the Committee that the charter has become somewhat of a "red herring".
- (iv) In keeping with its proposition that the criminal law must be realistic to be enforceable, the Committee strongly recommends that the limits of the permissible fee to be charged by an incorporated bona fide social club be re-examined. It is thought that there are a

considerable number of infringements by such clubs as fall within the Committee's third category. A comparatively small increase in the permitted fee appears to be the sensible solution. There appears to be little distinction in principle between a club which charges a small membership fee plus a playing fee and one which charges a higher membership fee with no playing fee. Prosecution of this relatively harmless activity may lead to corruption of those involved by perjury or otherwise.

The Committee notes that the present limitation on the amount of fee which may be charged was introduced into the Criminal Code in 1938. Prior to that time, a bona fide members club not operated for gain might lawfully charge such a fee as appeared to them proper.

CHAPTER 10

Pool Betting on Sports

By pool-betting on sports, the Committee means the well-known pari-mutuel type of wagering exemplified by the English football pools. In this type of wagering, the bettor, here commonly referred to as "the investor", bets upon his forecast of the outcome of a series or combination of sporting events. The odds which will be paid, if he is successful, are determined by the ratio in which the winning bets stand to the pool as a whole. The bet being on a combination of events is so complex that the chance of long-odds (a very high return) is present.

Although there is a strong element of chance in a pool bet it may be distinguished from a lottery in that the pools-bettor is generally of the opinion that a successful result may be achieved through a combination of sporting skill and mathematics. Having made certain forecasts which he regards as highly possible, he may permute or combine those forecasts with others regarded as more problematical up to the total involved in his wager. Thus, as in other types of horse and sports betting, the bettor may achieve more general satisfaction than the mere anticipation of winning money.

It should be noted further that habitue gamblers are not attracted to this type of gambling because of the impossibility of predicting even the probable odds in the event of a win. As has

been pointed out, these odds will be determined by the number of winning bets, the amount of the winnings varying inversely with the number of winners. It is for the same reason that these pools do not appear to be in the hands of the professional gamblers operating in the other fields described; in the case of variable odds, public support pre-supposes confidence in the integrity of the organiser; this confidence is usually encountered only where there is publicity of results and odds or "dividends". It is because of this necessity for publicity of results that successful pool-betting operations are generally found to be legal in their country of origin.

1. Existing Legal Outlets

Under the existing law (Section 178(1)) pool type sports betting is legal among not more than ten persons. All other pools are illegal.

2. Existing Illegal Outlets

(a) Office and club pools where the legal limit of ten participants is exceeded.

(b) Commercially organized pools

Because of the necessity for publicity of results and odds previously noted, the Committee infers that the majority of commercially organized sports-pools operating in Ontario are based in other countries where their operation is legal. It is known that at least some of the English football pool companies maintain "Overseas Departments" which, it is inferred,

are concerned with the operation of the pools in such countries as Canada. A typical English football coupon obtained in Canada is included in Appendix E p. 157.

The Committee's information as to the extent of the sports-pool operation in Ontario is regrettably far from clear. Such information is hard to come by for two reasons; first, there is considerable confusion in the public mind between pool coupons and certain kinds of lottery tickets, to be discussed in the next chapter; second, because of the inherent difficulty in detecting such operations.

3. Difficulty of Detection

The filling out of sports pool coupons is essentially a domestic pursuit not dependent upon any personal contact with the organizer. Upon completion of his forecast, the bettor will forward it either directly to the promoter or indirectly to him through a local agent. The most likely evidence of such operation is to be found in the detection of such communication by mail. It is possible for a bettor to make a forecast and instruct the promoter to repeat that forecast over a fairly long period. One remittance may cover such extended period of participation.

4. Post Office Practice

The Post Office is the principal law enforcement agency operating in this field. Letters and packages which are suspected to contain unlawful matter are sent to the Undeliverable Mail Office at Ottawa. If such letter or package is found to contain unlawful material, the person posting such letter or package is liable to be deprived of mailing facilities, i.e., his mail will be neither accepted nor delivered to him.

Some of the mail intercepted during last year related to sports pools operating in England. No exact figures are available as to the number of sports-pool coupons involved.

It should be noted that there is considerable practical difficulty in enforcing a prohibitory order.

4. Conclusions of the Committee

- (a) Despite the lack of direct evidence as to the extent of sports-pool betting, the Committee infers from the presence in Ontario of a considerable number of immigrants from the United Kingdom and Europe that there is considerable interest in this type of wagering.
- (b) On the basis of its examination of the experience in other countries, the Committee has concluded that it would be a simple matter to establish a legal outlet for such demands as may exist. Such a pool may be

made to depend on the outcome of any type of event.

- (c) The Committee observes that the creation of such legal outlet might well operate to the disadvantage of other gambling operations, in particular the short-odds sports betting and lotteries in that a portion of the money available for such operations might be directed thereto.
- (d) The Committee makes no recommendation for or against the creation of a legal outlet for this type of wagering as the factors involved in a decision are largely outside its terms of reference. The Committee's earlier recommendation as to the extension of off-track pari-mutuel betting was based on propositions relating to law enforcement in that there was a demonstrated public demand for such facilities and general public dissatisfaction with the arbitrary distinctions drawn by the existing law.

While the Committee has inferred that there is some demand, such demand is not demonstrated as in the case of off-track betting. Again, the Committee has no evidence of general public dissatisfaction with the existing law.

- (e) In the event that a decision was taken to create a legal outlet, the Committee recommends that the operation not be entrusted to private interests.

This is in keeping with the view of the Committee that no gambling operation should involve private profit and consequent promotion and exploitation. In this respect it should be noted the most recent British Royal Commission found that at least some of the English companies had failed to act honestly in the representation of dividends.

If a legal outlet is to be created, it is the conclusion of the Committee that it would be better to set up a Government-operated outlet on the same basis as the Swedish and Norwegian sports-pools described in Supplementary Material. Any such enabling legislation should contain a provision for the imposition of a ceiling on the prizes to be awarded.

CHAPTER 11

Bingo and Lotteries

The Committee has classed lotteries and bingo together on the basis that in both these forms of gambling, the outcome of the wager is determined by chance alone without the exercise of any skill on the part of the bettor. In other words, they are among the least sophisticated forms of organized gambling.

1. Existing Legal Outlets

Under the existing law, both lotteries and bingo may operate at a profit subject to certain conditions set out in the Criminal Code

(a) Bingo may lawfully be played under the incorporated bona fide social club exemption in Section 168 (2)

(a) provided no fee in excess of ten cents an hour or fifty cents a day is charged.

It may also be played lawfully under the

exemption in Section 168 (2) (b) which provides that

"Exemption

168. (2) A place is not a common gaming house within the meaning of subparagraph (i) or clause (b) or (c) of subparagraph (ii) of paragraph (d) of subsection (1).

.....

Charitable
Organization

(b) While occasionally it is used by charitable or religious organizations for the purpose of playing games for which a direct fee is charged to persons for the right or privilege of playing, if the proceeds from the games are to be used for a charitable or religious object."

Lotteries may lawfully be operated under the exemptions in Section 179 (8), of which the most important is in paragraph (b) of Subsection 8.

Raffles at
Church
Bazaars

179. (8) This section does not apply to
.....

- (b) raffles for prizes of small value at any bazaar held for any charitable or religious object, if permission to hold the same has been obtained from the city or other municipal council, or from the mayor, reeve or other chief officer of the city, town or other municipality, wherein such bazaar is held, and the articles raffled for thereat have first been offered for sale and none of them has a value exceeding fifty dollars;
....."

2. Enforcement Problems in Relation to Bingo

There can be little doubt that a great many bingo games are held which do not fall within the statutory exemption. Held frequently, rather than occasionally, and nominally, at most, for charitable or religious purposes, they appear to attract considerable popular support. Typical of the public's attitude appears to be the recent statement by the Mayor of Toronto criticizing the police for attempting to enforce the law to the letter. In the Toronto Globe & Mail of October 2nd, 1961, the Mayor is reported to have said that he could see nothing wrong with bingo conducted by churches and philanthropic organizations.

The Committee expresses no opinion on the social or moral effects on the player of such participation in bingo but points out that there is a serious law enforcement problem in this area of gambling as, not suprisingly it appears to have fallen largely into the hands of professionals. The Committee has been informed that the majority of bingo games in Ontario are, in fact, conducted by professional operators who are permitted to receive the proceeds in return for either a fee or a payment of a part of the proceeds to the church or philanthropic organization formally sponsoring the game.

The Committee further points out that the operation of a bingo game lends itself readily to stealing. The operators on the floor may steal from their employer; the operator may well steal from the nominal sponsor.

Once again a great deal of money is flowing into the wrong hands. The Committee has no exact information on the amount wagered on bingo in Ontario, but it understands that on a large game a profit of six thousand dollars per night may be anticipated; estimated profit from bingo operations in Ontario is put in excess of one million dollars per year. In the course of a Senate investigation in New Jersey, one church estimated its income from bingo as seventy thousand dollars over a thirty-month period.

Such an operation obviously offers a great attraction to the criminal underworld and control of some sort is equally obviously necessary to prevent the continuance of this source of income.

The Committee considers the present law ineffectual, depending as it does on the limitation of occasional use of premises. No provision is made for even formal control. The Committee agrees with the Mayor of Toronto, in a later portion of his remarks referred to above, that

"it should be an easy matter for an organization desiring to conduct a bingo game to satisfy the Police Department before embarking on the game that it was to raise funds to assist religious or philanthropic projects."

Conclusions of the Committee as to Bingo

The Committee accordingly recommends that the law be amended so as to permit a licensing system to be set up, under which permits would be granted for the operation of a limited number of such games

for specified purposes under statutory controls. Such controls should involve not only the fixing of prize limits, but also the submission of audited accounts to the licencing body. No person or commercial organization should be permitted to receive more than a reasonable remuneration for the hire of equipment or other paraphenalia and no rental for premises or reward for services should be permitted.

The Committee will make, in its final conclusions, certain recommendations as to the constitution of such licencing body.

3. Enforcement Problems in Relation to Lotteries

Illegal lotteries at present operating in Ontario may, in the view of the Committee, be divided into the following classes.

- (1) Non-commercial lotteries for religious or philanthropic purposes which exceed the present legal limitation as to the amount of prizes. Such lotteries are typified by the many public draws conducted by non-profit-making organizations offering such prizes as automobiles or motor-boats.

There appears to be considerable public support for such lotteries which would appear on the whole to be honestly conducted.

- (2) Commercial lotteries originating outside the province.

Typical of such enterprises is the Irish Hospitals Sweepstake. The Committee understands that such enterprises are usually conducted as a matter of private profit with only a relatively small part of the total take going to the nominal purpose. In the case of the Irish Sweep

it is understood that only 25% of the total gross income goes to the Irish Hospitals Commission.

A sample of such sweepstake or lottery tickets obtained in Canada is set out in Appendix E p. 157

The operation of such lotteries depends upon the availability of the mail and it is thus that the Post Office operates as the most active law enforcement agency in this field. In the period August 1, 1960, to July 31, 1961, 150,840 pieces of mail were intercepted and forwarded to Ottawa. Of this number, 30,500 were submitted by postmasters in Ontario. Approximately 55% of the national total was found to contain tickets etc., relating to a sweepstake operating in Jamaica.

It should be noted here that certain materials, solicited by the Committee from a foreign country were in fact seized by the Post Office on their arrival in Canada.

The Committee notes that, with respect to the Irish Hospitals Sweepstake, it is the practice to publish in Ontario the names and addresses of those winning the very substantial prizes in the Sweep. Such publication not only sustains but fosters interest in such illegal operation. So far as the Committee is aware, no effort has been made in recent years to seize such prizes under Section 179 (5) of the Criminal Code under which "all property so sold, lent, given, bartered or exchanged, is forfeited to Her Majesty".

The Committee also notes that there is no suggestion that those operating such enterprises are in any way connected with the criminal underworld in Canada or in the United States of America.

It should further be noted that the commercial illegal lottery offers an opportunity of great profit to professional criminals in the form of counterfeiting and fraud. Investigators in the U.S.A. report that a great many persons purchasing such lottery tickets have no chance of winning in that the tickets purchased are not genuine and so are not entered in the draw. As complaints are unlikely to be made to law enforcement agencies, the counterfeiter is likely to carry out this fraud with relative impunity.

- (3) Commercial lotteries of the "numbers" or "policy" type organized in Canada or the U.S.A. although the Committee has been informed that some such lotteries, based in Quebec, are operating in the eastern part of the Province it has no exact information as to the extent of the operation. As such operations involve small individual bets and personal contact between bettor and agent they demand a substantial degree of "protection" before they can flourish. The Committee has no information that such protection exists and notes that an attempt to operate a numbers racket in Windsor, Ontario, prior to 1951, was squashed after action by the Ontario Provincial Police.

A comparison of conditions in Ontario with those in New York State is re-assuring in this respect.

Conclusions of the Committee as to Lotteries

(a) With reference to the first class of lotteries, the Committee recommends that the criminal law should be amended so as to provide more realistic controls.

It is the view of the Committee that occasional small lotteries for religious or philanthropic purposes present no law enforcement problem. It therefore recommends that such lotteries be permitted to be operated occasionally without a permit provided that no cash prizes are awarded and that the total value of the prizes awarded does not exceed fifty dollars.

In view of the widespread public support for lotteries in which an automobile or motor-boat may be awarded to the winner, the Committee recommends that the law be amended to permit the operation of occasional lotteries for religious or philanthropic purposes in which prizes, other than cash, up to the value, say of three thousand dollars might be awarded. The legal operation of such lotteries should depend upon the operator obtaining a special permit from, and submitting audited accounts to, the licencing body already proposed.

In summary, the Committee finds that the present law is openly flouted; that there would be very little public support

for strict enforcement; that it is better to change the law than to weaken the whole gambling law by non-enforcement of this part. On the other hand, the Committee realizes that the present limited law enforcement may control this type of illegal gambling at a socially tolerable level.

- (b) With reference to the second class, or commercial lotteries such as the Irish Hospital Sweepstake, the Committee believes that present enforcement practices seriously weaken public respect for the criminal law relating to gambling.

The Committee has considered recommending, as did a Joint Committee of the Senate and House of Commons, that all known prizes won in such lotteries be confiscated under Section 179 (5) of the Criminal Code. The Committee does not make such recommendation, being of the opinion that such stringent enforcement against the customer rather than the distributor would arouse widespread public resentment rather than support. It is of the opinion that enforcement of anti-gambling laws generally should be by way of prosecution and punishment of the promoter and it is the view of the Committee that such dead-letter provisions as that relating to confiscation might better be removed from the statute book. In other words, the enactment and retention of unenforceable law appear to be the prime cause of public disrespect in this case.

The Committee does, however, recommend that, in line with the current English legislation, it be made an offence to publish information as to the results, prizes and winners of such lotteries. Such loss of the present free advertising would seriously detract from the effectiveness of illegal operations.

It is the view of the Committee that experience in all the countries which have been examined shows that there is wide public support for such large-scale lotteries. Only those jurisdictions which have established State Lotteries are free of law enforcement problems in this area.

(c) A recommendation of strict enforcement is made with reference to the numbers or policy type lottery.

4. Government-Operated Outlets

The Committee makes no recommendation for or against the creation of any government-operated outlet in the field of lotteries. This failure to make a recommendation is based upon the difficulty of assessing the true demand for such an outlet. The Committee inclines toward the view of Lord Kindersley who advised the most recent British Royal Commission that the sale of tickets in lotteries ~~in lotteries~~ is not the result of interest in the lottery but is achieved by personal pressure which the individual finds it difficult to resist. As Lord Kindersley asked, "What man would walk even a hundred yards to request that he be sold a ticket in a raffle which he readily purchases when approached by a friend?"

It is the view of the Committee that for the Government to set up a lottery might well create a demand rather than satisfy an existing demand.

While making no recommendation as to the creation of such outlets on the basis that a decision would depend to a great extent on matters other than law enforcement problems and therefore outside its terms of reference, the Committee wishes to draw attention to the type of State Lottery which seems most clearly distinguishable from the typical commercial type of lottery already discussed. The Committee here refers to the issue by the State of a series of premium bonds, the interest in which is not paid to the bond-holder but instead accumulated and distributed in the form of prizes or premiums to only certain bondholders determined by lot. Brief summaries of the premium bond schemes operated by the British, Norwegian and Swedish governments are to be found in Supplementary Material. Details of various money lotteries are also set out. The Committee notes that it would be a simple matter to set up a State lottery or Sweepstake either on a Dominion or Provincial basis.

5. Agricultural Fairs or Exhibitions

As is well known, the Criminal Code in Section 179 (3) permits the commercial operation of certain games of chance at what are commonly described as Midways or Carnivals.

The Committee has been informed by law enforcement agencies

that such operations not infrequently are found to involve serious cheating of the public. The Committee accordingly recommends that only those holding permits be permitted to take part in any way in the operation of such games; such permits to be obtained from the licencing body under the condition that they are not to be issued to any person who has ever been convicted of a criminal offence involving dishonesty and only to be issued to those who are, in the opinion of the licencing body, fit and proper persons to be trusted in such operation.

6. Report of the Joint Committee of the Senate and House of Commons of Canada

On July 31, 1956, a Report on Lotteries by the above Joint Committee was presented. The recommendations of that Joint Committee are summarized in Appendix A p. 124. It will be noted that while there are differences in particulars between recommendations of the Joint Committee and those made in the present Report, there appears to be general agreement on the areas in which changes should be made and on the principles which would determine such changes.

CHAPTER 12

The Financial Aspects of Illegal Gambling

1. Income Tax on Illegal Operations

Canadian Income Tax law provides that persons, receiving income from an illegal business must file a return of such income. Tax is assessed without reference to the fact of the illegality of the source and tax authorities are forbidden to communicate to law enforcement agencies information obtained from an income tax return and which would tend to show the commission of a crime by the tax-payer making the return.

Until recently, this privilege of non-disclosure of the contents of a return was claimed by the Department of National Revenue even at a trial of a tax-payer for a crime where the State, in the form of another agency, requested that the return be produced as evidence of guilt. Such claim of privacy was apparently based upon the proposition that if criminals were not guaranteed secrecy of disclosure, they would not make true returns and national revenues would suffer accordingly. This notion that the revenue must be defended at whatever other cost did not, however, prove acceptable to the Supreme Court of Canada when in 1954 it was required to consider such a claim by the Department of National Revenue in R. v.

Snider (1954) S.C.R. 479. The Department was ordered to produce the returns in question in which, apparently, the alleged book-makers had so declared themselves.

Such information is not, however, as previously stated, available to Canadian law enforcement agencies prior to trial. Somewhat surprisingly, it may by virtue of reciprocal treaties be communicated to the revenue departments of certain other countries.

The Committee understands that the Department of National Revenue acquires in this way considerable information which would be of value to Canadian agencies involved in the control of illegal gambling.

The Committee recommends that the revenue authorities be authorized to communicate suspicious facts to the law enforcement authorities. This should not involve communication of the details of a return.

2. Law Enforcement by Revenue Authorities

It is a matter of common knowledge that the notorious gangster Al Capone was finally convicted and jailed not for having committed murder or robbery or bootlegging, but for having failed to make a true return of the profits received from his nefarious enterprises.

This type of last resort prosecution is not uncommon in

the United States experience. It is the view of the Committee that such a practice should not be introduced in Canada without the most serious consideration of the general effects of such indirect enforcement of the criminal law.

3. Secret Banking Operations

Financial dealings between bettor and bookmaker appear to be conducted in cash or by cash settlement of a credit account. The cash involved is entrusted to a courier or "pick-up and pay-out man" who will travel on a regular circuit.

It is the view of the Committee that it is highly unlikely that the very large sums of money involved in layoff operations are similarly entrusted to couriers. In this respect, the Committee has been informed that such financial operations usually take place through the agency of one of a number of foreign banks operating in Canada through an account which the foreign bank maintains in its own name in a Canadian bank. Deposits and withdrawals are made by an agent of the foreign bank involved, thereby ensuring that no detailed records are available in the Canadian bank, either as clues to, or evidence of the illegal operation. Secrecy may be further assured by maintaining all pertinent information in the particular foreign bank's country of origin when under that country's law, such records are privileged from disclosure to anyone.

The Committee notes that such banking service would be of value not only to illegal gamblers, but to other criminals involved in large-scale financial operations and recommends that the existence of such a system should be the object of immediate and most serious study.

CHAPTER 13

CONCLUSIONS

1. Conclusions

From the examination of the problems reported above, the Committee is satisfied that there is a grave danger if the present illegal gambling operation is permitted to continue that either domestic or foreign criminal elements will prosper to such an extent as to undermine the very nature of our society.

With this real and immediate danger in mind, the Committee presents this report in all modesty as a basis for an attack upon these grave problems. The Committee has earlier propounded the theory that the criminal law must be realistic if it is to be enforceable. We have attempted in the short space of this report to show how such realism might be achieved in terms both of tolerance and enforcement.

To quote once again from the Report of the New Zealand Royal Commission

"We are only too conscious in respect of all such topics as are now under discussion of the possibility that our conclusions may prove fallacious. The whole history of gaming has demonstrated that the best-considered conclusions either prove erroneous or prove productive of unexpected and detrimental consequences. Discretion dictates, therefore, that anything we propose or recommend in this relation should be regarded as tentative, and that some authority should be created charged with the responsibility of watching results so that not only variations and improvements can be given effect, but radical alterations made where the indications are that a radical change is necessary."

The Committee concludes by recommending the creation of two such new authorities.

(a) Control of Legal Gambling

In view of the earlier recommendations as to the creation of a licencing system for legal gambling, the Committee recommends that, if those earlier recommendations be accepted, a Provincial Gambling Control Board be set up. Such Board would be charged with the supervision and control of all legal gambling within the province.

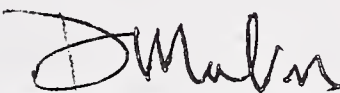
(b) Control of Illegal Gambling

Whether or not any of the other recommendations of the Committee be accepted, the Committee strongly recommends the creation of a new authority charged with general supervision of the control of crime. In view of the international character of criminal activities in the North American continent, it appears to the Committee that such authority should be national in character and form part of the machinery of the Dominion government.

It is the considered view of the Committee that problems of law enforcement and crime demand not the temporary scrutiny of an ad hoc Royal Commission but perpetual scrutiny by an independent body of a permanent character.

The Committee considers that the constitution of such a body should be deliberately a political (or "bi-partisan") and that its main function would be to observe and if necessary investigate the process of law enforcement in Canada. As in the case of The Temporary Commission of Investigation in New York State, it should have power neither of administrative control nor prosecution. Rather, it should operate by way of inquiry and report; leaving it to those at present charged with the responsibility for legislation and law-enforcement to withstand such impartial scrutiny.

All of which is respectfully submitted.


Chairman

